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CHILD SUPPORT ENFORCEMENT LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

JULY 14, 1983

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CHILD SUPPORT ENFORCEMENT LEGISLATION

THURSDAY, JULY 14, 1983

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION,
Washington, D.C.

The subcommittee met at 9 a.m., pursuant to notice, in room B-318, Rayburn House Office Building, Hon. Harold Ford (chairman of the subcommittee) presiding.

[The press releases announcing the hearing and background material follow:]

[Press release of Thursday, June 16, 1983]

THE HONORABLE HAROLD FORD (D., TENN.), CHAIRMAN OF THE SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, COMMITTEE ON WAYS AND MEANS, ANNOUNCES PLANS TO CONDUCT A PUBLIC HEARING ON THE CHILD SUPPORT ENFORCEMENT PROGRAM, INCLUDING H.R. 2374, THE CHILD SUPPORT ENFORCEMENT IMPROVEMENTS ACT OF 1983, ORIGINALLY INTRODUCED BY REPRESENTATIVE BARBARA B. KENNELLY (D., CONN.) ALONG WITH OTHER COSPONSORS

The Honorable Harold Ford (D., Tenn.), Chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee plans to conduct oversight hearings on the Child Support Enforcement program. The purpose of the hearing is to examine current financing and administrative arrangements, and to obtain information on particular strengths and weaknesses and the overall effectiveness of the program. In addition, the hearing will address proposed changes to the current program contained in H.R. 2374, the Child Support Enforcement Improvements Act of 1983. H.R. 2374, which is identical to Title V, Part A, of H.R. 2090, the Economic Equity Act, was originally introduced by Representative Barbara B. Kennelly (D., Conn.) who is a member of the Subcommittee. The bill has a number of cosponsors including the following members of the Committee on Ways and Means: Representative Fortney H. (Pete) Stark (D., Calif.), Representative Thomas J. Downey (D., N.Y.), Representative Cecil Heftel (D., Haw.), Representative Frank J. Guarini (D., N.J.), Representative James M. Shannon (D., Mass.), Representative Robert T. Matsui (D., Calif.), and Representative Barber B. Conable, Jr. (R., N.Y.)

The hearing will be scheduled as soon as possible, and the specific date, time and place will be announced in a subsequent press release. The purpose of today's announcement is to provide advance notice of the planned hearing so that those who may wish to testify can submit requests to appear before the Subcommittee and begin preparing their testimony.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Individuals and organizations interested in presenting oral testimony before the Subcommittee must submit their requests to be heard by telephone to Harriett Lawler ((202) 225-3637) no later than noon, Friday, July 1, 1983, to be followed by a formal written request addressed to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Building, Washington, D.C. 20515. Notification to those scheduled to appear will be made by telephone as soon as possible after the filing deadline.

It is urged that persons and organizations having a common position make every effort to designate one person to represent them in order for the Subcommittee to hear as many points of view as possible. Time for oral presentations will be limited with the understanding that a more detailed statement may be included in the printed record of the hearing. This process will afford more time for members to interrogate witnesses. In order to expedite the hearings, witnesses may be grouped as panelists with strict time limitations for each panelist.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 75 copies of their prepared statements to the full committee office, room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

Each statement to be presented to the Subcommittee or any written statement submitted for the printed record must contain the following information:

1. The name, full address, and capacity in which the witness will appear (as well as a telephone number where he or his designated representative may be reached):
2. A list of any clients or persons, or any organization for whom the witness appears; and
3. A topical outline or summary of comments and recommendations.

PROCEDURE TO BE FOLLOWED FOR SUBMITTING WRITTEN COMMENTS

The procedure to be followed for submitting written comments will be given in a subsequent press release stating the date and time of the hearing.

[Press release of Tuesday, July 5, 1983]

HON. HAROLD FORD (D., TENN.), CHAIRMAN OF THE SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, COMMITTEE ON WAYS AND MEANS, ANNOUNCES THAT THE HEARING ON CHILD SUPPORT ENFORCEMENT LEGISLATION WILL BE HELD ON THURSDAY, JULY 14, 1983, AND LISTS SPECIFIC BILLS WITNESSES ARE REQUESTED TO ADDRESS

Hon. Harold Ford (D., Tenn.), chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, U.S. House of Representatives, today announced that the hearing on pending Child Support Enforcement legislation, previously announced in a press release dated June 16, 1983, will be held on Thursday, July 14, 1983. The hearing will be held in room B-318 of the Rayburn House Office Building and will begin a 9 a.m.

Those witnesses who have already requested to testify at the hearings, following the instructions contained in the June 16, 1983 press release, are asked to address the following bills:

(1) H.R. 2374 (Mrs. Kennelly): The Child Support Enforcement Improvements Act of 1983.

(2) H.R. 926 (Mr. Stark): The Reducing Error in Income Support Programs Act of 1983. (Those provisions pertaining to the Child Support Enforcement program).

(3) H.R. 3354 (Mrs. Roukema): The National Child Support Enforcement Act.

In addition to these bills, witnesses are asked to address provisions contained in a legislative proposal that will be introduced in the House of Representatives by Hon. Carroll A. Campbell, Jr. (R., S.C.) when Congress reconvenes on July 11. A summary of this Child Support Enforcement proposal can be obtained from the Committee on Ways and Means Minority Office, room 1106 Longworth House Office Building, telephone number (202) 225-4021.

PROCEDURE TO BE FOLLOWED FOR SUBMITTING WRITTEN COMMENTS

Any interested person or organization may file a written statement for inclusion in the printed record of the hearing. Persons submitting written comments should submit at least six copies by the close of business, Friday, July 22, 1983, to John J. Salmon, chief counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. Those wishing to have their written statements distributed to the press and interested public may submit 50 additional copies for this purpose if provided to the committee office before the hearing begins.

Congressional Research Service
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Washington D.C. 20540

STATISTICAL DATA ON SINGLE-PARENT FAMILIES WITH CHILDREN

Carmen D. Solomon
Analyst in Social Legislation
Education and Public Welfare Division
July 12, 1983

STATISTICAL DATA ON SINGLE-PARENT FAMILIES WITH CHILDREN

I. INTRODUCTION

A sizeable and growing proportion of households are families that consist only of a mother and her children. Since 1970, the number of female-headed families has doubled, whereas the number of two-parent families has declined slightly. As a result, by 1981 one out of every 5 children in the U.S. lived in a family where the mother was never married or the father was absent because of death, divorce, or separation. The increasing incidence of divorce, family abandonment, and children born outside of marriage have combined to leave an unprecedented number of children in single-parent homes, many without adequate or any support from the other parent. In 1981, 52 percent of all children under 18 who were living with their mothers only had incomes below the poverty threshold. Further, among children, in families with a female householder (with no husband present), 25 percent were poor despite full-time work of the mother.

This paper examines some of the demographic and economic characteristics of single parents living with own children under 18, focusing primarily on one-parent families maintained (headed) by the mother. 1/ The paper also dis-

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1/ In 1981, 90 percent of persons under 18 years old living with only one parent were living with their mothers; 10 percent were living with their fathers.

cusses the Aid to Families with Dependent Children (AFDC) program and the Child Support Enforcement program, two Federal programs that assist one-parent families. [2]

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[2] For one-parent families with earnings, the Earned Income Tax Credit provides another source of financial help, but it is limited to a maximum of $500 per year per family.

II. CHANGING FAMILY COMPOSITION

A. Two-Parent Versus One-Parent Families

Since 1960, there has been a far more rapid increase in the number of one-parent families than in two-parent families. In fact, the number of two-parent families declined slightly been 1970 and 1981 after having increased moderately during the 1960s. In March 1981, there were 24.9 million families with two parents; of which 22.3 million were white and 1.9 million were black. 3/ (See table 1.) The proportion of white families with two parents declined from 91 percent in 1970 to 83 percent in 1981, but the decline in incidence of two-parent families among blacks was much more pronounced, from 67 percent to 50 percent.

During both of these periods, the number of families maintained solely by the mother increased very sharply--by 55 percent during the 1960s and 103 percent during the 1970-1981 period. Families maintained by the mother increased from 31 to 48 percent for blacks, and from 8 to 15 percent for whites. (See table 1.) Although the incidence of one-parent families was higher among blacks than whites, 68 percent of all families maintained by one parent in 1981 were white. One-parent families accounted for 21 percent of the 31.6

3/ According to the Bureau of the Census about 87 percent of persons maintaining households in 1981 were white, 11 percent were black, and 2 percent were in some other category. 700,000 of the 24.9 million families with two parents were Indians, Japanese, Chinese, and any race except white or black.

Table 1 Two-Parent and One-Parent Families as Proportions of All Families with Children Present, by Race: 1981 and 1970

(Numbers in thousands)

Subject	1981[1]		1970		Change, 1970-81	
	Number	Percent	Number	Percent	Number	Percent
ALL RACES						
All families with own children under 18	31,561	100.0	28,812	100.0	2,749	9.5
Two-parent families	24,935	79.0	25,541	88.6	-606	-2.4
One-parent families	6,627	21.0	3,271	11.4	3,356	102.6
Maintained by mother	5,935	18.8	2,926	10.2	3,009	102.8
Never married	1,068	3.4	234	0.8	834	356.4
Spouse absent	1,558	4.9	1,093	3.8	465	42.5
Separated	1,367	4.3	771	2.7	596	77.3
Divorced	2,694	8.5	956	3.3	1,738	181.8
Widowed	615	1.9	644	2.2	-29	-4.5
Maintained by father	692	2.2	345	1.2	347	100.6
Never married	78	0.2	21	0.1	57	(B)
Spouse absent or divorced	509	1.6	212	0.7	297	140.1
Divorced	355	1.1	(NA)	(NA)	(NA)	(NA)
Widowed	106	0.3	112	0.4	-6	-5.4
WHITE						
All families with own children under 18	26,800	100.0	25,543	100.0	1,257	4.9
Two-parent families	22,304	83.2	23,277	91.1	-973	-4.2
One-parent families	4,497	16.8	2,266	8.9	2,231	98.5
Maintained by mother	3,945	14.7	1,995	7.8	1,950	97.7
Never married	406	1.5	66	0.3	340	(B)
Spouse absent	929	3.5	630	2.5	299	47.5
Separated	795	3.0	384	1.5	411	107.0
Divorced	2,173	8.1	799	3.1	1,374	172.0
Widowed	438	1.6	500	2.0	62	12.4
Maintained by father	552	2.1	271	1.1	281	103.7
Never married	46	0.2	17	0.1	29	(B)
Spouse absent or divorced	428	1.6	171	0.7	257	150.3
Divorced	317	1.2	(NA)	(NA)	(NA)	(NA)
Widowed	80	0.3	83	0.3	-3	-3.6
BLACK						
All families with own children under 18	3,918	100.0	2,984	100.0	934	31.3
Two-parent families	1,938	49.5	1,999	67.0	-61	-3.1
One-parent families	1,979	50.5	985	33.0	994	100.9
Maintained by mother	1,862	47.5	912	30.6	950	104.2
Never married	641	16.4	166	5.6	475	286.1
Spouse absent	591	15.1	454	15.2	137	30.2
Separated	548	14.0	382	12.8	166	43.5
Divorced	465	11.9	151	5.1	314	207.9
Widowed	164	4.2	141	4.7	23	16.3
Maintained by father	117	3.0	73	2.4	44	(B)
Never married	29	0.7	4	0.1	25	(B)
Spouse absent or divorced	70	1.8	40	1.3	30	(B)
Divorced	33	0.8	(NA)	(NA)	(NA)	(NA)
Widowed	19	0.5	29	1.0	-10	(B)

NA Not available.
B Base is less than 75,000.

[1] Although unrelated subfamilies have not been included in the count of families since 1980, they are included in these totals to allow consistent comparison with 1970 data.

Source: U.S. Bureau of the Census. Current Population Reports, Series P-20, No. 371. Household and Family Characteristics: March 1981. Washington, U.S. Govt. Print. Off., 1982.

million families with children in 1981; of which 19 percent were maintained by the mother and 2 percent by the father. (See table 1.)

The information about one-parent families as a whole reflects disproportionately the characteristics of black mothers, since close to one-third (32 percent) of the 5.9 million mother-and-child families are maintained by black women and blacks constitute only one-ninth of the total U.S. population.

B. Trends in Divorce and Separation

In 1981, there were slightly more than a million divorces. Forty-five percent of all mother-and-child families were maintained by divorced women. The corresponding figures were 55 percent for white mother-and-child families, and 25 percent for black mother-and-child families.

The increase in divorce is statistically captured by the divorce ratio, which is the number of divorced persons per 1,000 persons who are married and living with their spouse. (For example, in March 1981, there were 10,841,000 divorced persons and 99,792,000 persons married with spouse present, yielding a ratio of 0.109 or 109 per 1,000.) Changes in the type of family show that blacks are much more likely to experience divorce than whites. The number of divorces per 1,000 persons married with spouse present increased for blacks from 83 in 1970 to 233 in 1981; for whites, the comparable increase was from 44 to 100. The 1981 divorce ratio for black women was extremely high at 289; almost 3 black women were divorced for every 10 black women married. (See table 2.)

Table 2 Divorced Persons per 1,000 Married Persons With Spouse Present, by Age, Sex, Race, and Spanish Origin: 1981, 1980, 1970, and 1960

Year and sex	Total	Race		Spanish origin[1]	Age			
		White	Black		Under 30 years	30 to 44 years	45 to 64 years	65 years and over
BOTH SEXES								
1981	109	100	233	110	103	138	101	65
1980[r]	100	92	203	98	96	125	91	64
1980	100	92	203	94	94	125	92	65
1970	47	44	83	61	38	47	53	47
1960	35	33	62	(NA)	23	33	46	32
MALE								
1981	88	82	178	73	85	118	82	44
1980[r]	79	74	149	64	78	104	70	48
1980	79	74	151	59	77	103	72	49
1970	35	32	62	40	28	33	40	32
1960	28	27	45	(NA)	16	25	39	24
FEMALE								
1981	129	118	289	146	116	158	121	95
1980[r]	120	110	258	132	108	147	112	89
1980	120	110	257	133	107	146	112	88
1970	60	56	106	81	46	61	66	69
1960	42	38	78	(NA)	28	41	53	44

NA Not available. [r] Revised using population controls based on the 1980 census.

[1] Persons of Spanish origin may be of any race.

Source: U.S. Bureau of the Census. Current Population Reports, Series P-20, No. 372. Martial Status and Living Arrangements: March 1981. Washington, U.S. Govt. Print. Off., 1982.

The number of separated persons per 1,000 married persons with spouse present increased for blacks from 172 in March 1971 to 225 in March 1981; the comparable increase for whites was from 21 to 29. 4/

C. Never-Married Women

Another factor contributing to the formation of families maintained by the mother is the number of children born to single (never married) women. In 1981, there were approximately 1.1 million families maintained by mothers who had never married; of which 406,000 were white and 641,000 were black (21,000 were of some other race). For whites, the percentage of births to unmarried women went from 6 percent in 1971 to about 9 percent in 1979; the comparable percentages for blacks were 41 and 55 percent. 5/ Single (never-married) women accounted for 18 percent of black families maintained by the mother in 1970 and 34 percent in 1981; whereas single (never-married) women accounted for only 3 percent of white families maintained by the mother in 1970 and 10 percent in 1981. (See table 1.)

D. Widows

In contrast, the proportion of widowed women has declined for both black and white families maintained by women. Widowed women accounted for 30 percent of all white families maintained by women in March 1981, down from 44 percent

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4/ U.S. Bureau of the Census. Special Demographic Analyses, CDS-80-7. Changing Family Composition and Income Differentials. Washington, U.S. Govt. Print. Off., 1982. p. 5.

5/ The latest available data for births to unmarried women are from the National Center for Health Statistics are for the calendar year 1979. U.S. Bureau of the Census. Special Demographic Analyses, CDS-80-7. Changing Family Composition and Income Differentials. Washington, U.S. Govt. Print. Off., 1982. p. 5.

in March 1971. For blacks, the percentages were 21 percent and 25 percent, respectively. 6/

E. Remarriage

According to the Director of the California Divorce Law Research Project 7/ the liklihood of remarriage is largely a function of the woman's age at time of divorce. If a woman is under 30, she has a 75 percent chance of remarrying. But her chances are significantly lower if she is older: between ages 30 and 40, it's closer to 50 percent, and if she is 40 years of age or older she has only a 28 percent chance of remarrying. (These finding are very similar to those found by the Census Bureau in their 1979 report on Divorce, Child Custody, and Child Support, see table 3.)

Table 3. Characteristics of Divorced Women: 1975

(Numbers in thousands. Women whose first marriage ended in divorce, by age at divorce, number of children born before divorce, duration of divorce, and whether remarried)

Age at divorce and number of children born before divorce	All women whose first marriage ended in divorce		Percent remarried by survey date	Median years divorced[1]		
				Total	At survey date	
	Number	Percent			Divorced	Remarried
Total, aged 14 to 75 with fewer than 6 children born before divorce......	9,068	100.0	66.0	3.8	4.7	3.2
Aged 14 to 29 at divorce.....................	5,845	64.5	76.3	3.1	3.4	3.1
No children................................	1,932	21.3	79.6	2.9	2.6	2.9
1 child....................................	1,967	21.5	75.0	3.1	3.6	3.0
2 children.................................	1,233	13.6	74.9	3.1	3.4	3.0
3 to 5 children............................	732	8.1	73.6	4.0	5.2	3.8
Aged 30 to 39 at divorce.....................	2,202	24.3	56.2	4.5	5.8	3.8
Aged 40 to 75 at divorce.....................	1,021	11.3	28.1	5.5	6.5	2.9

[1] Number of years between divorce and survey date for those still divorced; number of years between divorce and second marriage for those remarried.

Source: U.S. Bureau of the Census. Current Population Reports, Special Studies, Series P-23, N. 84. Divorce, Child Custody, and Child Support. Washington, U.S. Govt. Print. Off., 1979. p. 10.

6/ Ibid. p. 5.

7/ "Child Support? Forget It," by Fern Eckman. Working Women.

Table 3 presents a profile of divorced women who had remarried and of those who had not remarried by the survey date in 1975. Among women who remarried after their first marriage was terminated by divorce, the average time between divorce and remarriage was 3.2 years. For men, the average time between divorce and remarriage was also about 3 years (3.1 years).

Among persons who had reached age 35 in 1975, three of every four men and two of every three women whose first marriage ended in divorce had remarried (see table 4). Thus, divorce after first marriage is generally not the final marital step but only one of the steps in transition between first marriage and

Table 4 Percent Remarried After First Marriage Ended in Divorce or in Widowhood, for Persons Born in Selected Periods Between 1900 and 1944 by Sex: June 1975

(Numbers in thousands)

Year of birth and sex	Divorced after first marriage				Widowed after first marriage			
	Total		Not remarried	Remarried	Total		Not remarried	Remarried
	Number	Percent			Number	Percent		
BOTH SEXES								
Born in—								
1940 to 1944	2,262	100.0	30.9	69.1	167	100.0	62.5	37.5
1930 to 1934	2,066	100.0	26.5	73.5	386	100.0	66.4	33.6
1920 to 1924	2,034	100.0	21.9	78.1	1,015	100.0	56.5	43.5
1910 to 1914	1,393	100.0	16.7	83.3	1,824	100.0	64.1	35.9
1900 to 1904	661	100.0	17.1	82.9	2,073	100.0	71.7	28.3
MALE								
Born in—								
1940 to 1944	986	100.0	24.9	75.1	25	(B)	(B)	(B)
1930 to 1934	924	100.0	21.9	78.1	68	(B)	(B)	(B)
1920 to 1924	986	100.0	17.0	83.0	241	100.0	33.3	66.7
1910 to 1914	660	100.0	14.4	85.6	429	100.0	35.0	65.0
1900 to 1904	289	100.0	10.7	89.3	519	100.0	44.9	55.1
FEMALE								
Born in—								
1940 to 1944	1,276	100.0	33.6	66.4	142	100.0	41.5	58.5
1930 to 1934	1,142	100.0	30.3	69.7	318	100.0	51.6	48.4
1920 to 1924	1,048	100.0	26.5	73.5	774	100.0	60.5	39.5
1910 to 1914	733	100.0	18.8	81.2	1,395	100.0	73.0	27.0
1900 to 1904	372	100.0	22.0	78.0	1,554	100.0	80.7	19.3

B Base less than 75,000.

Source: U.S. Bureau of the Census. Current Population Reports, Series P-20, No. 297. Number, Timing, and Duration of Marriages and Divorces in the U.S., June 1974. Washington, U.S. Govt. Print. Off., 1976.

second marriage, with divorced men being 4 to 11 percentage points more likely than divorced women to eventually remarry.

F. Living Arrangements of Children

In 1981, about 12.6 million children lived with only one parent, 54 percent more than in 1970. Even though the total number of children under 18 years old in the U.S. declined from 69 million in 1970 to 63 million in 1981, the number of children affected by divorce, separation, and unmarried status of mother continued to rise. Twenty percent of all children lived in a one-parent family in 1981, compared with 12 percent in 1970. (See table 5.) In addition, 3 percent of children under 18 lived with a relative other than the parent and 0.6 percent lived with someone other than a relative. 1977 Census data indicate that about 8 percent of the children living with two parents were living with a stepparent.

Of the 12.6 million children living with one parent, 90 percent lived with their mothers and 10 percent with their fathers. Between 1970 and 1981 the number of children living with only their fathers grew by 61 percent (from 748,000 to 1,060,000). The proportion of all children in one-parent families who lived with their fathers rose from 1.1 percent to 1.9 percent.

The largest number of children in one-parent families had a parent who was divorced, followed by children whose parents were separated or never married. In 1981, of the children who lived only with their mothers, 43 percent had a mother who was divorced, 27 percent had a mother who was separated, and 16 percent had a mother who had never been married. The number of children with a divorced mother doubled since 1970, but the number with a never-married mother tripled. (See table 5.)

For most children in one-parent families, such a living arrangement is only temporary, lasting only a few years, usually until their custodial parent remarries, reconciles, or marries for the first time. 8/

Table 5 Living Arrangements of Children Under 18 Years Old: 1981, 1980, and 1970

(Excludes persons under 18 years old who were maintaining households or family groups and their wives. Numbers in thousands)

Living arrangements of children and marital status of parent	1981		1980r		1980		1970		Percent change, 1970-81
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	
Children under 18.......	62,918	100.0	63,427	100.0	61,744	100.0	69,162	100.0	-9.0
Living with—									
Two parents..................	48,040	76.4	48,624	76.7	47,286	76.6	58,939	85.2	-18.5
One parent....................	12,619	20.1	12,466	19.7	12,162	19.7	8,199	11.9	53.9
Mother only..................	11,416	18.1	11,406	18.0	11,131	18.0	7,451	10.8	53.2
Divorced..................	4,912	7.8	4,766	7.5	4,630	7.5	2,296	3.3	113.9
Married..................	3,540	5.6	3,610	5.7	3,519	5.7	3,234	4.7	9.5
Separated..............	3,112	4.9	3,086	4.9	3,016	4.9	2,332	3.4	33.6
Widowed..................	1,158	1.8	1,286	2.0	1,260	2.0	1,395	2.0	-17.0
Single (never married)..	1,807	2.9	1,745	2.8	1,721	2.8	527	0.8	242.9
Father only..................	1,203	1.9	1,040	1.7	1,031	1.7	748	1.1	60.8
Divorced..................	614	1.0	515	0.8	503	0.8	177	0.3	246.9
Married..................	296	0.5	288	0.5	281	0.5	287	0.4	3.1
Separated..............	261	0.4	241	0.4	235	0.4	152	0.2	71.7
Widowed..................	181	0.3	183	0.3	172	0.3	254	0.4	-28.7
Single (never married)..	112	0.2	75	0.1	75	0.1	30	-	(B)
Other relatives only........	1,911	3.0	1,949	3.1	1,914	3.1	1,547	2.2	23.5
Nonrelatives only...........	348	0.6	388	0.6	382	0.6	477	0.7	-27.0

- Represents zero.
B Base less than 75,000.
rRevised using population controls based on the 1980 census.

Source: U.S. Bureau of the Census. Current Population Reports, Series P-20, No. 372. Marital Status and Living Arrangements: March 1981. Washington, U.S. Govt. Print. Off., 1982.

8/ U.S. Bureau of the Census. Current Population Reports, Special Studies, Series P-23, No. 84. Divorce, Child Custody, and Child Support. Washington, U.S. Govt. Print. Off., 1979. p. 3.

III. POVERTY STATUS

According to a special demographic analyses by the Bureau of the Census, 9/ changes in family composition that occurred during the 1970's increased the number of families below the poverty level and, consequently, the poverty rate. The analysis states that changes in family composition have resulted in approximately 2 million more poor families in 1980.

In 1981, there were 12.3 million poor children under 18 years of age; the poverty rate for such children was 21 percent.

More than one-half (52 percent) of all children living in families with a female householder with no husband present were below the poverty level in 1981, compared with 11 percent of children living in married-couple families. 10/

Among children, in families with a female householder, 25 percent were poor despite full time work of the mother. (See table 6.) The 1981 median income of families consisting of a female householder with no husband present and 2 children amounted to approximately $9,300. (See table 7.) The comparable figure for married-couple families was $26,500.

9/ U.S. Bureau of the Census. Special Demographic Analyses, CDS-80-7. Changing Family Composition and Income Differentials. Washington, U.S. Govt. Print. Off., 1982.

10/ U.S. Bureau of the Census. Current Population Reports, Series P-60, No. 138. Characteristics of the Population Below the Poverty Level: 1981. Washington, U.S. Govt. Print. Off., 1983.

Table 6. Own Children—Poverty Status in 1981 of Own Children Under 18 Years Old, by Age, Type of Family, and Work Experience and Race of Mother

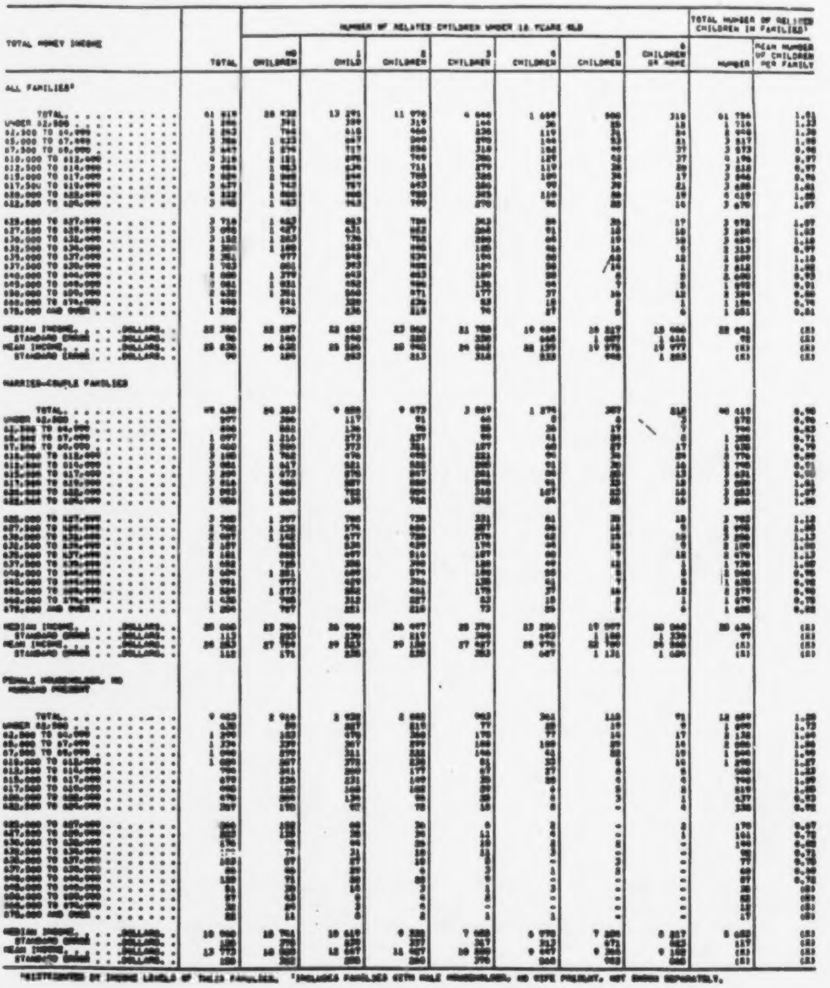
(NUMBERS IN THOUSANDS. OWN CHILDREN AS OF MARCH 1982. FOR MEANING OF SYMBOLS, SEE TEXT)

WORK EXPERIENCE OF MOTHER AND TYPE OF FAMILY	ALL RACES			WHITE			BLACK		
	TOTAL	BELOW POVERTY LEVEL		TOTAL	BELOW POVERTY LEVEL		TOTAL	BELOW POVERTY LEVEL	
		NUMBER	PERCENT OF TOTAL		NUMBER	PERCENT OF TOTAL		NUMBER	PERCENT OF TOTAL
ALL OWN CHILDREN UNDER 18 YEARS									
TOTAL	59 339	12 273	20.7	49 183	7 770	15.8	[illegible]	[illegible]	[illegible]
MOTHER WORKED LAST YEAR	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
50 TO 52 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
40 TO 49 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
27 TO 39 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14 TO 26 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
13 WEEKS OR LESS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MEAN NUMBER OF WEEKS WORKED	[illegible]	[illegible]	(B)	[illegible]	[illegible]	(B)	[illegible]	[illegible]	[illegible]
MOTHER WORKED FULL-TIME	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
50 TO 52 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
40 TO 49 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
27 TO 39 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14 TO 26 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
13 WEEKS OR LESS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
WORKED LESS THAN 50 WEEKS									
MAIN REASON FOR WORKING PART YEAR:									
KEEPING HOUSE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
OTHER	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MOTHER DID NOT WORK LAST YEAR	[illegible]	7 357	33.3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MAIN REASON FOR NOT WORKING:									
KEEPING HOUSE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
OTHER	[illegible]	1 719	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
OWN CHILDREN IN MARRIED-COUPLE FAMILIES									
TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MOTHER WORKED LAST YEAR	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SPOUSE DID NOT WORK	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
50 TO 52 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
40 TO 49 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
27 TO 39 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14 TO 26 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
13 WEEKS OR LESS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MEAN NUMBER OF WEEKS WORKED	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MOTHER WORKED FULL-TIME	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
50 TO 52 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
40 TO 49 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
27 TO 39 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14 TO 26 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
13 WEEKS OR LESS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
WORKED LESS THAN 50 WEEKS									
MAIN REASON FOR WORKING PART YEAR:									
KEEPING HOUSE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
OTHER	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MOTHER DID NOT WORK LAST YEAR	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MAIN REASON FOR NOT WORKING:									
KEEPING HOUSE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
OTHER	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
OWN CHILDREN IN FAMILIES WITH FEMALE HOUSEHOLDER, NO HUSBAND PRESENT									
TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MOTHER WORKED LAST YEAR	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
50 TO 52 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
40 TO 49 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
27 TO 39 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14 TO 26 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
13 WEEKS OR LESS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MEAN NUMBER OF WEEKS WORKED	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MOTHER WORKED FULL-TIME	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
50 TO 52 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
40 TO 49 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
27 TO 39 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14 TO 26 WEEKS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
13 WEEKS OR LESS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
WORKED LESS THAN 50 WEEKS									
MAIN REASON FOR WORKING PART YEAR:									
KEEPING HOUSE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
OTHER	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MOTHER DID NOT WORK LAST YEAR	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MAIN REASON FOR NOT WORKING:									
KEEPING HOUSE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
OTHER	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Source: U.S. Bureau of the Census. Current Population Reports, Series P-60, No. 138. Characteristics of the Population Below the Poverty Level, 1981. Washington, U.S. Govt. Print. Off., 1983.

Table 7 Number of Related Children Under 18 Years Old—Families, by Total Money Income in 1981 and Type of Family

(NUMBERS IN THOUSANDS. FAMILIES AS OF MARCH 1982. FOR MEANING OF SYMBOLS, SEE TEXT)



U.S. Bureau of the Census. Current Population Reports, Series P-60, No. 137. Money Income of Households, Families, and Persons in the U.S., 1981. Washington, U.S. Govt. Print. Off., 1983.

IV. AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) AND CHILD SUPPORT ENFORCEMENT (CSE)

The primary program available to "needy" women with children is the AFDC program. The AFDC program provides cash welfare payments for needy children (and their mothers or caretaker relatives), who have been deprived of parental support or care because:

- o their fathers are absent from the home continuously (87 percent of the children), are incapacitated (5 percent), deceased (2 percent), or unemployed (4 percent); or
- o their mothers are incapacitated, absent, or dead (1.5 percent). 11/

In its 1974 report on H.R. 17045, the bill which became Public Law 93-647, the Senate Committee on Finance stated:

> The problem of welfare in the United States is, to a considerable extent, a problem of non-support of children by their absent parents . . . . The Committee believes that all children have the right to receive support from their fathers. 12/
>
> The Committee bill is designed to help children attain this right, including the right to have their fathers identified so that support can be obtained. The immediate result will be lower welfare costs to the taxpayer, but more importantly, as an effective support collection system is established fathers will be deterred from deserting their families to welfare and children will be spared the effects of family breakup. 13/

11/ U.S. Department of Health and Human Services. Social Security Administration. Office of Research and Statistics. 1979 Recipient Characteristics Study. 1982.

12/ The Senate report on H.R. 17045 referred to support from "fathers," but the language of the final bill was sex-neutral, and its collection machinery applied to a parent of either sex who had fallen behind on court-ordered child support payments.

13/ U.S. Senate. Committee on Finance. Social Services Amendments of 1974, a report to accompany H.R. 17045, Dec. 14, 1974. Washington, U.S. Govt. Print. Off., 1974. p. 42.

Title IV-D of the Social Security Act, Child Support and Establishment of Paternity, was enacted as Public Law 93-647 in 1975 to establish a program of child support enforcement. The program provides services to both AFDC and non-AFDC families to locate absent parents, establish paternity, and to assist in the establishment and collection of court-ordered, administratively ordered, and voluntary child support payments. The program was enacted in an effort to require absent parents to support their children and thereby reduce AFDC expenditures.

Applicants for, and beneficiaries of, AFDC are required to make an assignment of support rights to the State in order to receive AFDC. In addition, each applicant or recipient must cooperate with the State if necessary to establish paternity and secure child support.

The support payments made on behalf of AFDC children are paid to the State for distribution rather than directly to the family.

Non-AFDC families participate in the program on a voluntary basis. Services to non-AFDC families were made a permanent part of the program in 1980. Money paid for non-AFDC families goes directly to the family.

V. CHILD SUPPORT AWARDS

A. Census Bureau Findings

Of the 8.4 million women who had children present under age 21 from an absent father, 41 percent never were awarded child support rights (nor had an agreement to receive child support payments) and, thus were dependent for income on sources other than the father. For poor mothers, the proportion without child support awards was even higher, 60 percent.

Almost 5 million women with children under age 21 (59 percent) had been awarded child support or had an agreement to receive child support payments, but only 4 million (48 percent) of the women were actually "supposed to receive" child support in 1981. The rights of the remaining 11 percent were no longer in force because the father who owed payments had died, the children had grown past the age of eligiblity for payments, or because of another such reason.

Many of the women who were awarded child support payments did not receive the full amount they were due. In 1981, only about one-half (47 percent) of the 4 million women owed child support payments received the full amount, about 25 percent of the women received less than they were owed, and 28 percent received no payment at all (see table 8). The average amount of child support for women who received payments in 1981 was $2,100, about 18 percent of their average total income. In 1978, the average amount of child support was $1,800 about 20 percent of the woman's income.

Table 8 Awarded and Recipiency Status of Women—Child Support and Alimony Payments in 1981 and 1978

(Women as of spring 1982 and 1979. Child support payments for women with own children under 21 years of age present from an absent father; alimony payments for ever-divorced women)

Year, award and recipiency status of women	Child support payments		Alimony payments	
	Number (thousands)	Percent distribution	Number (thousands)	Percent distribution
1981				
Total	8,387	100.0	16,996	100.0
Awarded[1]	4,969	59.2	2,534	14.9
Supposed to receive payments in 1981	4,043	48.2	782	4.6
Not supposed to receive payments in 1981	926	11.0	1,752	10.3
Not awarded[1]	3,417	40.7	14,462	85.1
Supposed to receive payments in 1981	4,043	100.0	782	100.0
Actually received payments	2,902	71.8	527	67.4
Received full amount	1,888	46.7	340	43.5
Received partial amount	1,014	25.1	187	23.9
Did not receive payments	1,140	28.2	255	32.6
1978				
Total	7,094	100.0	14,334	100.0
Awarded[1]	4,196	59.1	2,052	14.3
Supposed to receive payments in 1978	3,424	48.3	760	5.3
Not supposed to receive payments in 1978	772	10.9	1,292	9.0
Not awarded[1]	2,898	40.9	12,282	85.7
Supposed to receive payments in 1978	3,424	100.0	760	100.0
Actually received payments	2,452	71.6	528	69.5
Received full amount	1,675	48.9	312	41.1
Received partial amount	777	22.7	216	28.4
Did not receive payments	971	28.4	232	30.5

[1] Award status as of spring 1982 and 1979.

Source: U.S. Bureau of the Census. Current Population Reports, Series P-23, No.124. Child Support and Alimony: 1981 (Advance Report). Washington, U.S. Govt. Print. Off., 1983.

Of the 8.4 million women with children by an absent father, about 2.6 million (31 percent) had incomes below the poverty level. Of these women, only 31 percent (806,000) had agreements to receive child support and were due payments in 1981. Another 9 percent had agreements but were not due payments in 1981, and the remaining 60 percent were never awarded payments (see table 9).

Among the 2.6 million women with incomes below the poverty level in 1981, 806,000 were supposed to receive child support payments, 61 percent (495,000) actually received payments, while 39 percent did not.

For women who actually received child support payments in 1981, the amount of payment tended to be higher than average for divorced and separated women, white women, and women who had attended college. Those with lower than average payment amounts included never-married women, black women, and women who had not completed 12 years of school (see table 10).

Only 14 percent of women who had never married were awarded child support payments; compared with 81 percent of divorced women, 78 percent of remarried women and 42 percent of women who were separated. However, once payments were awarded, never-married women were almost as likely to receive them as other women. Of the 2.9 million women who actually received child support payments in 1981, 52 percent were divorced, 30 percent were remarried, 14 percent were separated, and 4 percent were single (never-married). The women who had never married received, on the average, the lowest amount of child support payments.

Black mothers and mothers of Spanish origin living apart from the father of their children were much less likely than their white counterparts to be awarded child support. Almost 70 percent of white mothers were awarded child support payments, compared with 34 percent of black mothers, and 44 percent of mothers of Spanish origin. Further, both black and Spanish-origin mothers received smaller payments, on the average, than did white mothers.

Table 9 Child Support Payments Agreed to or Awarded—Women With Own Children Present, by Selected Characteristics, for All Women and Women With Incomes Below the Poverty Level in 1981

(WOMEN WITH OWN CHILDREN PRESENT UNDER 21 YEARS OF AGE FROM AN ABSENT FATHER AS OF SPRING 1982. FOR MEANING OF SYMBOLS, SEE TEXT)

SELECTED CHARACTERISTICS		CHILD SUPPORT PAYMENTS—												
		AGREED TO OR AWARDED										NOT AWARDED		
			SUPPOSED TO RECEIVE PAYMENTS IN 1981											
				RECEIVED PAYMENTS					DID NOT RECEIVE PAYMENTS					
					MEAN TOTAL MONEY INCOME		MEAN INCOME FROM CHILD SUPPORT			MEAN TOTAL MONEY INCOME			MEAN TOTAL MONEY INCOME	
	TOTAL (THOUS.)	TOTAL¹ (THOUS.)	TOTAL (THOUS.)	NUMBER (THOUS.)	VALUE (DOL.)	STANDARD ERROR (DOL.)	VALUE (DOL.)	STANDARD ERROR (DOL.)	NUMBER (THOUS.)	VALUE (DOL.)	STANDARD ERROR (DOL.)	NUMBER (THOUS.)	VALUE (DOL.)	STANDARD ERROR (DOL.)
ALL WOMEN														
TOTAL	8 387	4 969	4 043	2 902	11 797	252	2 106	66	1 140	8 027	316	3 417	6 128	190
STANDARD ERROR	187	147	134	114	(X)	(X)	(X)	(X)	72	(X)	(X)	183	(X)	(X)
CURRENT MARITAL STATUS OF WOMAN														
MARRIED²	2 281	1 712	1 290	860	9 881	389	1 900	190	432	7 628	560	569	5 613	483
DIVORCED	2 861	2 304	2 033	1 501	14 230	373	2 220	75	532	9 707	438	557	6 697	463
SEPARATED	1 352	669	518	416	9 893	539	2 370	186	102	5 673	821	683	6 352	318
WIDOWED³	98	60	16	9	(B)	(B)	(B)	(B)	7	(B)	(B)	38	(B)	(B)
NEVER-MARRIED	1 708	264	176	118	5 909	669	1 018	189	58	(B)	(B)	1 444	4 937	178
RACE AND SPANISH ORIGIN OF WOMAN														
WHITE	5 977	4 136	3 663	2 698	12 190	290	2 180	73	966	8 189	386	1 841	6 412	270
BLACK	2 383	772	546	366	8 949	543	1 640	189	180	7 582	727	1 611	5 276	211
SPANISH ORIGIN⁴	630	276	232	153	8 687	1 316	2 068	630	79	8 060	1 669	354	6 787	307
AGE OF WOMAN														
18 TO 29 YEARS	3 053	1 961	1 166	733	8 676	321	1 663	77	443	6 384	666	1 093	6 016	187
30 TO 39 YEARS	3 366	2 392	1 952	1 462	12 494	333	2 231	105	462	8 092	499	974	7 880	327
40 YEARS AND OVER	2 046	1 277	933	697	13 969	647	2 486	131	236	11 085	886	769	7 546	377
EDUCATIONAL ATTAINMENT OF WOMAN														
LESS THAN 12 YEARS	2 386	1 029	762	449	6 869	393	1 677	110	313	5 988	482	1 362	6 279	166
HIGH SCHOOL: 4 YEARS	3 971	2 511	2 068	1 469	10 819	282	1 909	66	579	7 679	626	1 460	6 479	225
COLLEGE: 1 TO 3 YEARS	1 386	951	800	622	13 235	586	2 269	289	179	10 290	611	435	7 730	257
4 YEARS OR MORE	644	493	431	362	16 973	1 080	3 069	235	69	(B)	(B)	151	10 772	1 096
NUMBER OF OWN CHILDREN														
1 CHILD	4 175	2 377	1 860	1 299	11 123	360	1 690	70	562	8 328	960	1 797	6 321	223
2 CHILDREN	2 772	1 811	1 549	1 199	11 917	407	2 236	96	371	7 820	563	961	5 790	286
3 CHILDREN	892	512	418	327	13 008	731	2 767	217	91	7 361	1 020	380	5 580	409
4 CHILDREN OR MORE	548	270	213	155	12 668	1 293	3 146	700	58	(B)	(B)	280	6 944	536
WOMEN WITH INCOMES BELOW THE POVERTY LEVEL IN 1981														
TOTAL	2 566	1 010	806	495	6 209	389	1 940	190	311	3 675	600	1 547	3 373	188
STANDARD ERROR	162	163	92	73	(X)	(X)	(X)	(X)	57	(X)	(X)	127	(X)	(X)
CURRENT MARITAL STATUS OF WOMAN														
MARRIED²	181	110	67	46	(B)	(B)	(B)	(B)	21	(B)	(B)	71	(B)	(B)
DIVORCED	694	498	455	291	6 942	634	1 466	252	164	4 250	550	196	3 791	463
SEPARATED	700	270	217	144	6 263	667	1 760	420	73	(B)	(B)	367	3 993	353
WIDOWED³	13	6	6	-	(B)	(B)	(B)	(B)	6	(B)	(B)	7	(B)	(B)
NEVER-MARRIED	893	127	92	66	(B)	(B)	(B)	(B)	27	(B)	(B)	767	3 380	247
RACE AND SPANISH ORIGIN OF WOMAN														
WHITE	1 386	608	577	346	6 207	467	1 490	220	233	3 617	500	660	3 040	271
BLACK	1 167	311	217	144	6 271	731	1 380	384	73	(B)	(B)	856	3 283	243
SPANISH ORIGIN⁴	286	90	77	44	(B)	(B)	(B)	(B)	33	(B)	(B)	196	4 163	884
AGE OF WOMAN														
18 TO 29 YEARS	1 292	601	362	217	6 130	479	1 890	206	145	3 456	671	692	3 980	327
30 TO 39 YEARS	837	409	331	200	6 249	667	1 818	223	131	4 617	600	428	3 732	372
40 YEARS AND OVER	436	173	113	79	6 823	967	1 790	673	35	(B)	(B)	262	3 446	476
EDUCATIONAL ATTAINMENT OF WOMAN														
LESS THAN 12 YEARS	1 290	412	318	173	3 722	520	1 390	270	145	3 667	617	830	3 327	256
HIGH SCHOOL: 4 YEARS	997	460	300	238	4 940	532	1 388	281	126	3 720	763	540	3 907	275
COLLEGE: 1 TO 3 YEARS	252	112	70	38	(B)	(B)	(B)	(B)	36	(B)	(B)	139	3 040	488
4 YEARS OR MORE	71	44	38	30	(B)	(B)	(B)	(B)	6	(B)	(B)	28	(B)	(B)
NUMBER OF OWN CHILDREN														
1 CHILD	1 008	720	290	164	4 880	343	1 000	179	122	3 108	690	640	2 790	256
2 CHILDREN	873	443	326	210	3 727	387	1 060	316	126	3 790	676	600	3 229	285
3 CHILDREN	387	154	107	75	5 695	1 081	1 070	621	32	(B)	(B)	233	3 637	526
4 CHILDREN OR MORE	287	106	77	44	(B)	(B)	(B)	(B)	32	(B)	(B)	182	4 090	663

¹Includes a small number of women who were not supposed to receive payments in 1981. ²Remarried women whose previous marriage ended in divorce. ³Widowed women whose previous marriage ended in divorce. ⁴Persons of Spanish origin may be of any race.

Source: U.S. Bureau of the Census. Current Population Reports, Series P-23, No.124. Child Support and Alimony: 1981 (Advance Report). Washington, U.S. Govt. Print. Off., 1983.

Table 10 Child Support Payments Awarded and Received in 1981—Women With Children Present, by Selected Characteristics

(Women with own children under 21 years of age present from an absent father as of spring 1982)

Characteristics of women	Total (thousands)	Percent awarded child support payments[1]	Supposed to receive child support in 1981			
			Total (thousands)	Actually received child support in 1981		
				Percent	Mean child support	Mean total money income
Total	8,387	59.2	4,043	71.8	$2,106	$11,747
CURRENT MARITAL STATUS						
Married[2]	2,201	77.8	1,298	66.7	1,909	9,081
Divorced	2,861	80.3	2,033	73.8	2,220	14,230
Separated	1,552	42.8	518	79.9	2,376	9,893
Widowed[3]	64	(B)	16	(B)	(B)	(B)
Never-married	1,708	14.3	178	62.9	1,013	5,333
RACE AND SPANISH ORIGIN						
White	5,977	69.2	3,663	72.3	2,180	12,198
Black	2,283	33.8	346	67.0	1,640	8,849
Spanish origin[4]	628	43.9	232	63.9	2,068	8,887
YEARS OF SCHOOL COMPLETED						
Less than 12 years	2,386	42.9	762	58.9	1,677	6,860
High school: 4 years	3,971	63.2	2,048	71.7	1,909	10,819
College: 1 to 3 years	1,385	67.9	802	77.6	2,309	13,233
4 years or more	644	76.6	431	86.0	3,089	18,973

B Base less than 75,000.

[1] Award status as of spring 1982.

[2] Remarried women whose previous marriage ended in divorce.

[3] Widowed women whose previous marriage ended in divorce.

[4] Persons of Spanish origin may be of any race.

Source: U.S. Bureau of the Census. Current Population Reports, Series P-23, No.124. Child Support and Alimony: 1981 (Advance Report). Washington, U.S. Govt. Print. Off., 1983.

Mothers who were not high school graduates were less likely than average to be awarded child support, and their support payments were on the average much smaller than those of mothers who had completed more than 12 years of school.

In addition, the age of the woman was related to the awarding of child support payments. Women between the ages of 30 and 39 were the most likely to be awarded child support and the most likely to actually receive payments. However, women 40 years of age and older received, on average, higher support payments. Women under age 30 were the least likely to be awarded payments, and those who were awarded support received smaller payments, on average, than older women.

Another factor related to child support was the number of children the mother had with her in the absence of their father. Women with two children were the most likely to receive support, whereas, women with four children or more, on average, received higher support payments. This is not surprising, since one would expect the father to pay more in child support if he has four children, as compared with two children.

Chairman **Ford**. The Subcommittee on Public Assistance and Unemployment Compensation will come to order for the purpose of public hearings today for legislation on child support enforcement.

I would like to thank the committee members and all of the witnesses that will be appearing before the subcommittee here today.

The purpose of today's hearing is to examine the effectiveness of child support enforcement programs and to receive testimony on several bills aimed at improving the current program.

The intent of the Federal child support enforcement law is to insure that all parents fulfill their financial obligation to their children. This is a right to which each and every child is entitled.

However, the current title IV-D legislation has focused mainly on recovering AFDC funds paid to single-parent families. A primary objective of the bills before you today is to increase the effectiveness of the program in obtaining child support for non-AFDC families as well.

Child support enforcement is a critical economic issue to parents who head single families. This is especially true for women who comprise 90 percent of single-parent households.

More than 8 million families now lack a male parent. With 1.2 million new divorces every year, it is estimated that within the next 10 years, one-half of American children will live apart from their fathers for part of their childhood.

Recent reports show that less than 3 of every 10 fatherless families receive regular child support payments from absent fathers. Even when fathers are under court order, less than half pay regularly and perhaps as many as a third never make a single payment.

I have always maintained that our children are our most precious and valuable resource, and we must see to it that they are not neglected. Every able-bodied parent has both a legal and moral obligation to support his or her children.

The child support enforcement program has not worked as well as we would like in some instances. However, I would like to cite my home State of Tennessee as an example of what can be done when strong efforts are made.

Statistics comparing the 1979 and 1980 fiscal year with 1982 and 1983 year-to-date figures show that the total child support cases being served in Tennessee has increased by 69.3 percent. Total child support collections have increased by 66.9 percent.

The amount of AFDC funds recouped from the child support program has increased by 42 percent. The child support program was responsible for the removal of 6,152 participants from the AFDC rolls due to child support collections, the highest in the Nation. I commend Tennessee for its efforts in making child support enforcement a viable and effective program.

Today we have several panels, but I would like to at this time welcome the Secretary who is here with us today, and I am very pleased that she has chosen this topic as her first occasion to appear before the Subcommittee on Public Assistance and Unemployment Compensation.

The number of House Members who requested to testify before the subcommittee today as well as the strong bipartisan cosponsorship of comprehensive legislation to improve the child support program are indications of the high level of interest on this topic. I am hopeful that we can all work together to produce a bill that improves the current program, and as a result, improves the financial well-being of children of this country.

I would like at this time to provide the opportunity for other members of the subcommittee to make opening remarks before I yield and recognize the Madam Secretary of HHS, who is a former member of this body and one who has distinguished herself not only here in the Congress but as well as the new Secretary of HHS.

At this time, the Chair will recognize Mr. Campbell.

Mr. CAMPBELL. Thank you, Mr. Chairman.

I also would like to welcome Secretary Heckler to our subcommittee and commend her and the President for taking an interest in this important issue and working to rectify the problems in the child support enforcement program.

I introduced a bill, H.R. 3545, yesterday which focuses on one of the most serious problems affecting the economic well-being of children in our country, the alarming extent to which parents ignore or do not meet fully their child support obligations. Joining me in sponsoring this bill are Representatives Moore, Frenzel, and Thomas, from the Ways and Means Subcommittee on Public Assistance and Unemployment Compensation; Representatives Conable and Duncan from the Committee on Ways and Means; Representatives Marriott, Coates, and Johnson, who serve on the Select Committee on Children, Youth, and Families; and Representatives Lott, Snowe, Martin of Illinois, and Roukema.

The enormity and severity of the child support problem have been chronicled extensively elsewhere, most recently in the just-released 1981 census study of child support and alimony. Therefore, I will mention only a few of the key points to demonstrate the proportions of the issue.

First of all, an unprecedented percentage of America's children are in need of child support. Every year about 1.2 million children's parents divorce. In addition, about 700,000 children are born to unmarried mothers. Together this makes nearly 2 million children each year, in addition to all the millions of children from preceding years, who are in need of financial support from absent parents. Remembering that fewer than 4 million children are born each year in this country helps to put those figures in perspective. The Census Bureau estimates that only half of all children born this year will spend their entire childhood living with both natural parents.

Second, family breakup and single parenthood carry severe economic consequences. In 1979, two-thirds of the children in families headed by women depended on welfare—aid to families with dependent children. Most AFDC recipients, 87 percent, are eligible because they lack sufficient support from absent parents. Even when the mother works outside the home, divorce sharply reduces the family income for herself and her family. One recent study of per capita income after divorces in California showed that the wife's income dropped by 73 percent on average while the husband's rose by 42 percent a year after the divorce. Several factors account for the economic decline after divorce. Women, for a variety of reasons, still earn on average only about 60 percent as much as men. They usually receive custody of the children, adding to their need for income in order to maintain a home, meet the basic needs of the children, and pay for child care so that they can work. Most important, in an astonishing percentage of instances, single women with children do not get any or adequate financial assistance from the children's fathers.

It is this nonpayment of child support which this bill is intended to address. Some 40 percent of single parents even lack a support order entitling their children to help from the absent parent. Of the 60 percent with support orders, about 28 percent get no support assistance at all, a quarter receive some payment while only 47 percent receive the full amount due in a particular year.

Nearly a decade ago, Congress was sufficiently alarmed by statistics far less extreme than those cited above that title IV-D of the Social Security Act was passed. Under this program, States must operate programs of child support enforcement which receive substantial Federal financial assistance. The results have been impressive. In 1982, nearly $1.8 billion in child support was paid through this program—about $800 million to States for families receiving AFDC and about $1 billion on non-AFDC families.

While there is no doubt but that this program has made a good start, it it also true that there is a long way to go and that the problem of nonsupport of children seems to be outpacing current support enforcement efforts. The effectiveness and efficiency of States varies substantially, with some collecting more than $4 in support for every $1 spent and others collecting less than $1 for every $1 spent. Some States serve all families in need of assistance while others focus their services almost exclusively on families receiving AFDC. Despite the efforts of the IV-D program and State and local officials, it still appears that full payment of child support obligations is the exception rather than the rule. Increases in child support collections are outpaced by the increasing numbers of children in need of support. The census report on 1981 child support payments indicates that the percentage of families receiving full payment actually declined from 49 percent to 47 percent between 1978 and 1981.

There probably have been more bills introduced in the House dealing with child support enforcement this year than in any other year. In addition to introducing H.R. 3545, I have cosponsored the administration's legislation, since I believe that they have incorporated several vital provisions, including portions contained in my bill. I have worked closely with Secretary Heckler on the administration's legislation, and once again, I commend both the Secretary and President Reagan for taking the lead on this important matter.

My bill is aimed at the goals of getting absent parents to pay the full amount of child support owed, on time, and without excessive or onerous enforcement techniques, regardless of whether or not their children are receiving AFDC or not. At this point, I would like to insert into the hearing record a description of the bill.

[The material follows:]

DESCRIPTION OF THE BILL

STATEMENT OF PURPOSE

Section 1 adds an explicit statement of purpose to Title IV-D where none now exists, as follows: "The purpose of the program . . . is to assure that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of the economic status of their parents and that parents prevent their children from becoming a burden on taxpayers by fulfilling, to the best of their ability, their financial obligations on behalf of their children."

While this statement of purpose seems almost unnecessary, in fact there has been considerable disagreement over the extent to which the IV-D program ought to assist non-AFDC families obtain child support, if at all. Not only have several states virtually ignored the non-AFDC population, but at the Federal level as well there has been a substantial emphasis on the AFDC caseload as well as reluctance to see states attempt "universal" enforcement systems under which support paid by all absent parents is closely monitored. I am suggesting a statement of purpose which makes clear that assisting all children who have been unable to obtain support from absent parents is just as valid a function of the program as preventing the dependency of these children on tax dollars when their parents refuse to support them. I have a strong suspicion that these two goals are more closely related than studies thus far have been able to demonstrate and that when families are reasonably confident that support payments will be made in full and on time, they will be able to build economic, emotional, and social and educational strengths in the family that will help ward off dependency and breakdown later on.

FINANCIAL INCENTIVES FOR BALANCED AND EFFICIENT STATE PROGRAMS

Section 3 replaces the present law incentive payment which focuses exclusively on AFDC collections. Under the current scheme, States are permitted to keep a "bonus" equal to 12 percent of support they have collected on behalf of families on AFDC. The remaining 88 percent is then divided among State and Federal governments in proportion to the rate at which the Federal government matches State AFDC payments. This 12 percent incentive is expected to amount to about $120 million in Fiscal 1984.

I am proposing to replace the 12% AFDC incentive with a four-part incentive plan which is intended to encourage States to provide child support enforcement services to all families which request assistance, to work as hard on interstate cases where the child and absent parent reside in different States or localities as on so-called domestic cases, as well as to seek child support to offset AFDC expenses incurred when parents fail to support their children.

These incentives will be computed and paid quarterly beginning in Fiscal 1986 so that States and localities will have frequent measures of their progress and so that Federal incentive funds will arrive throughout the year as they are needed. A pass-through requirement will make sure that localities which do the bulk of the work and bear a large portion of the costs will receive their share of the incentive payments. Because the record-keeping systems required to compute eligibility for incentive payments do not exist in many states, a phase-in provision assures States that they will receive amounts equal to at least four-fifths, three-fifths and two-fifths respectively in Fiscal 1986, 1987 and 1988 of what they would have gotten under the existing 12 percent AFDC incentive.

The first of the four incentive payments urges States to try to develop as many "perfect cases" as possible. By this I mean that the total amount of support owed has been paid in full and on time in each of the 12 months in the first four of the last five calendar quarters. The reason for measuring achievement in terms of cases rather than in dollar amounts is to value cases with high support amounts equally with those ordering low amounts and not to give wealthier localities or States which might order higher support on average an advantage over less well to do areas. However, in order not to encourage "low-balling" of support orders so that more cases will qualify for the incentive, the bill provides that incentive payments will be reduced proportionately to the extent that the average amount collected per case is less than the AFDC amount that would be paid to a family of two in that State. An AFDC payment for two is used because the average AFDC family has a parent and two children; only the children are potentially owed child support. The average payment for all cases (whether paying or not) is used because it is realized that in some cases it will be appropriate to order low support amounts and that in other cases, such as those where the absent parent cannot be located, it is unrealistic to expect payments.

While ideally we would want all cases to be completely paid up on time, in reality this will be impossible. Not only are lapses and arrearages an inescapable fact—often due to unemployment as well as recalcitrance, disinterest or slack enforcement—but there are always new cases being filed. Many of these families do not yet have a support order; some may not have yet legally established paternity; and others cannot locate the absent parent. Also, States may open a new "case" each time a family begins a new episode of AFDC dependency rather than reopen the old file. Therefore, this incentive payment begins with a threshold of 30 percent of all cases in which the state undertook after June 30, 1984 to collect support. That is, the incentive will be paid only on "perfect" cases in excess of 30 percent of all cases. The incentive payment will be equal to 0.2 percent of the State's administrative costs for the quarter in question for each 1 percent of cases in excess of 30 percent. For example, if 40 percent of a State's cases were in the "perfect" category, its incentive payment would be equal to 0.2 percent times 10 percent, or 2 percent of its administrative costs. If the average support collected on all cases equaled only 90 percent of the AFDC payment for two, the State's incentive payment would be reduced proportionately—by 10 percent.

The second incentive is similar to the first. However, it rewards States for having a high percentage of cases making "adequate" payment. This is defined as paying at least 80 percent of the ordered amount anytime during the first four of the last five quarters. Under this incentive, only cases in excess of 70 percent of all the State's cases would count toward the incentive payment. For each percent of "adequate" cases over 70 percent, the State will receive 0.4 percent of its administrative costs. As in the first incentive, this payment will be reduced to the extent that average support collected on all cases is less than the AFDC payment for two. The reason for having this second system-wide incentive is to make sure that States, in their efforts to achieve "perfect" cases, do not concentrate only on cases which are already approaching perfect status and neglect other cases making sporadic, incomplete, or no payments.

The third incentive encourages states to pursue interstate cases. This incentive will be paid at the rate of 0.4 percent of administrative costs for each 1 percent in excess of half of all a State's interstate cases in which at least "adequate" payment is obtained (80 percent of ordered amount anytime during the first four of the last five quarters.) Both States would receive the incentive—the State where the child resides as well as the State where the absent parent resides. This puts the case on a par with "domestic" cases as far as the incentive payment is concerned.

The fourth incentive payment is based on AFDC cases, and is measured in terms of how much of total State AFDC payments for single-parent families are recovered through child support collections for children receiving AFDC. Nationally, States average 6.6 percent AFDC "recovery" through child support enforcement. This incentive would pay States an incentive equal to 1 percent of support collected in AFDC cases for every 1 percent by which their recovery of AFDC payments exceeded 5 percent. This incentive would be paid regardless of whether the AFDC child lived in the State or elsewhere so that interstate cases can be pursued equally with in-state cases. Under this incentive, for example, if a State collected $50 million on behalf of children receiving AFDC and this equalled 10 percent of the State's $500 million AFDC expenditure for single-parent families, the State would get an incentive payment equal to 5 percent of the $50 million, or $2.5 million.

It is intended that where specific cases qualify under more than one of the four incentives, they be counted toward each. Therefore, an interstate AFDC case which paid in full and on time all year would count toward all four incentive payments.

Many States do not currently keep track of case-by-case statistics and cannot tell how many cases are fully paid, how many are in arrears, or the amount and duration of the arrearages. However, because child support enforcement must necessarily keep track annually of literally millions of financial transactions, it seems unrealistic not to develop an "accounts receivable" type of monitoring system for the future. Given the current lack of such information, I am the first to admit that the threshold levels and payment percentages set forth in my bill are educated guesses intended to aim high enough to encourage improvement and low enough to be within reach for well-managed, efficient systems. Also, the incentives will measure only support which the States have undertaken to collect after June 30, 1984 so that any new information system will need to pick up data only from that point forward. I have offered this 4-part scheme to stimulate discussion and to focus reform, not as a final proposal. Therefore, I hope that people familiar with the operations and potential for child support collections will study these suggested incentive levels and share with me any refinements, improvements or substitutes which might better achieve the goals I have discussed.

IMPROVED ENFORCEMENT TECHNIQUES

The remainder of the bill sets forth a number of methods which have been shown to increase the payment of child support obligations at relatively low cost, minimal personnel, and high return.

COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

Section 4 extends to non-AFDC cases the present law procedure wherey Federal income tax refunds are used to offset past child support obligations in AFDC cases. This simple and inexpensive process ($11 per case) has been extremely successful, accounting for $168 million in collections the first year it was used (1981) and more in 1982.

A State will be permitted to limit its non-AFDC offset activities to only the amount of past due support which accumulated after it undertook to seek support. However, a State or locality may opt to submit to the Federal government arrearages that accumulated before a case was filed.

Because the bill merely broadens present law to include non-AFDC cases, the procedures and safeguards that have been worked out during the first two years for AFDC cases will apply. This includes procedures for notifying obligors and permitting them to respond and indicate any errors in the alleged arrearage.

WITHHOLDING FROM WAGES

Section 5 requires States to implement a procedure for withholding child support amounts from the wages of absent parents. This has been found to be a reliable, effective and low-cost technique which efficiently brings cases into paying status and keeps them there. My bill allows States flexibility as to when they implement withholding. At the latest, they must make withholding when support becomes past due in amount equal to two months' payments or when the absent parent requests withholding. However, States could implement withholding immediately, beginning with the first support payment as a means of preventing arrearages from ever occurring.

Because this withholding system will add to employers' paperwork burden, the bill permits employers to withhold fees, in addition to support, to cover any additional costs. Also, employers may send a single check to the appropriate State agency for distribution to the proper families.

States must impose fines on employers who dismiss or refuse to hire individuals because of withholding. Withholding must be used in interstate as well as domestic cases.

QUASI-JUDICIAL OR ADMINISTRATIVE PROCEDURES

Section 5 also requires the use of alternative procedures to the traditional and often lengthy and expensive judicial forums. States have found that administrative personnel can often get parties to agree on the establishment and enforcement of support obligations more quickly and at less public and private expense than in adversarial court proceedings. These alternative procedures must observe all due process requirements and provide for notice of actions to be taken, opportunity to be heard, and appeal to a court.

STATE TAX REFUND OFFSETS

Section 5 requires at the State level the same income tax refund offset proposed at the Federal level. This offset would be used in both AFDC and non-AFDC cases.

LIENS AGAINST REAL PROPERTY

Section 5 requires States to make greater use of their procedures for placing liens on real property for past due support owed by absent parents owning property in the state. In States where child support activities are handled at the local level, procedures must be implemented for using the lien procedure throughout the state. Liens are to be used in both interstate and domestic cases.

REPORTING PAST DUE SUPPORT TO CREDIT AGENCIES

Section 5 requires States to report periodically to consumer credit bureau organizations the amount of past due support owed by absent parents in both interstate and domestic cases. Child support obligations cannot be discharged in bankruptcy and stand in front of virtually all other debt an individual may incur. Therefore, creditors and credit reporting agencies are interested in knowing about child support arrearages. Absent parents will have to pay support arrearages in order to clear their credit ratings. Prior to reporting arrearage information, States must notify obligors and give them a chance to respond. The protections under the Fair Credit Reporting Act also protect absent parents in case of erroneous information.

The credit reporting, lien, and tax offset procedures are all intended to help collect support from non-wage earners who will not be affected by withholding. These individuals may be proprietors, farmers, independent contractors or otherwise self-employed. These are effective and relatively inexpensive techniques which are expected to bring these individuals into better compliance.

MEDICAL SUPPORT

Often the absent parent can provide employment-related health care or insurance for his children at little or no additional cost. Under section 5, States are to seek such support when the custodial parent has been unable to provide such health coverage.

The Secretary of HHS is permitted to waive any of these section 5 requirements if a State can demonstrate with factual, detailed data that a particular procedure would not improve the efficiency or effectiveness of its program. The effective date for these State procedures is October 1, 1984 or, if enabling legislation is required, until the close of the first State legislative session after January 1, 1985.

CENTRAL PAYMENT AND REGISTRY SYSTEMS

The incentive system proposed in section 3 as well as the demands of tracking the staggering number of transactions in millions of child support cases means that most States (and localities where child support enforcement is decentralized) will have to automate and upgrade their information management systems. At the very least, they need to know the amounts of support ordered to be paid to children residing in the State, the amounts ordered to be paid by parents residing in or employed in the State, the amounts collected or paid and the dates of payment, and the amounts past due and the duration of arrearages. Without this essential data, States will not be able to respond to increasing requests for support assistance or to measure their progress.

States may wish to use their information systems as clearinghouse mechanisms through which all or most child support payments are channelled and forwarded. Other States may prefer to use the central registry concept wherein payments are made directly to the custodian via withholding, bank transfers, credit cards or other means and the central registry is notified that the payment, withholding or transfer has been made. Either way the State has a record of the timing and amount of payments and a means for triggering enforcement activities when payments are incompleted or late.

Although most States have automated at least part of their child support effort, upgrading to handle clearinghouse or registry tasks will be a lengthy and expensive process. Therefore, the bill authorizes a fund of $20 million per year for 5 years to be available until spent. This money will be available to States on a project grant basis for between 80 to 90 percent of project costs.

QUARTERLY SYSTEM OF WAGE REPORTING.

Section 7 amends Title III of the Social Security Act to require all unemployment compensation agencies to collect employment, wage, name and address information at least quarterly. The vast majority of States currently do this now, and problems of interstate fraudulent claims is forcing the remaining few to consider switching to this approach. The bill further provides that this employment and address information be shared with the child support agency in order to facilitate location of absent parents and ascertainment of their financial and employment status.

Mr. CAMPBELL. Thank you.

Chairman FORD. Thank you, Mr. Campbell.

Mrs. Kennelly.

Mrs. KENNELLY. Thank you, Mr. Chairman.

May I also welcome Secretary Heckler to this hearing. The Secretary and former Congresswoman was so much a part of the Women's Economic Equity Act and your presence here this morning really highlights the importance of this hearing, and I thank you so much.

Mr. Chairman, let me also thank you for holding the hearings on the child support enforcement program. You and I have talked about this a great deal and this moment has come, and we are both pleased together.

I would also like to thank Ken Bowler for his backing and help in research, and Martha Phillips for her marvelous ideas, especially her ideas on the funding formula that we will be discussing.

Although this issue is complicated, the subcommittee is willing to delve into it and look at it as a very sensitive issue.

We know that our inadequate system for enforcement of child support directly contributes to the increased feminization of poverty, and also today we will discuss what it has done to fathers too.

But when you know that 90 percent of the families, single-headed families, are women, we have to point out that it is contributing to the feminization of poverty.

I believe until recently there has been a general misconception—certainly not by the people in this room, but by many people—that fathers bear the entire financial burden of our child rearing responsibility after divorce while the mother continues her way of living. However, support orders are often low to begin with and payments are most often erratic, if at all.

Of the 60 percent that both gentlemen have mentioned who have received court orders for child support, less than half receive payments in full and 30 percent receive nothing at all. Even with full payment of child support, the average family would still receive much less than the Federal poverty standards.

Improvements of the child support system are clearly a critical economic issue for women and for millions of children today.

During the 97th Congress, the Economic Equity Act called for a study of child support. This year, when the Economic Equity Act was introduced in March, we introduced a comprehensive proposal to improve the child support enforcement program. We included a statement of purpose in order to insure enforcement would be available to all children entitled to support from an absent parent.

Recent Census Bureau figures are very clear in the statement that they made: Absent parents don't pay.

For many groups interested in child support, I think there has been some amazement that Congress would take a good, hard look at these proposals for reform. However, I know many individuals, especially those in this room, know that we had to take this look and we have to get into this complicated situation.

After a considerable amount of activity and publicity on this issue, it is time to take the kid gloves off and get into the nitty-gritty, and that is what we intend to do today.

I am especially interested where the absent parent's right to due process should be spelled out. In addition, I would like to hear suggestions of the kinds of funding formulas, and we have two or three now before us, that give the States the incentives to handle both AFDC and non-AFDC caseloads with equal vigor.

But we must not handicap States that are already doing a good job. I am very aware of them and we are asking them to help us pass this good information around.

It would be easy to offer promises of quick results to families who are experiencing economic hardship on account of nonpayment of child support but reform will not be easy. We must work together, and carefully, to develop the best proposals for the Federal role in child support systems.

With the help of today's witnesses, especially the Secretary, I am sure this can be accomplished.

Thank you, Mr. Chairman.

Chairman FORD. Thank you.

The subcommittee once again would like to welcome the Secretary of Health and Human Services before the committee today to talk on the issue that we feel is very important and vital to our country, and one that the subcommittee chairman has talked about with other members of this subcommittee and Members in the Congress from a bipartisan standpoint. We see that there is full support in the Congress.

We welcome you and we welcome your testimony before the committee today, and we are delighted, Madam Secretary, to have you before the subcommittee. The Chair will recognize you at this time.

STATEMENT OF HON. MARGARET M. HECKLER, SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary HECKLER. Thank you very much, Mr. Chairman, Congressman Campbell and my dear friend, Barbara Kennelly.

I have to say that it is a pleasure to be before your committee to consider this important subject with you and to commend you, Mr. Chairman, for holding this hearing. I want to commend as well each of the subcommittee members who are present.

I have to say that the help of Congressman Campbell and his staff was a very critical element in drafting our legislation.

Obviously, we all have a deep personal interest in the problem before us. The failure of absent parents to support their children is a very serious problem for millions of women and children in this country.

According to the Census Bureau, more than 8.4 million women in 1981 were raising children whose fathers were absent. Thirty percent of these women and children were living in poverty.

Although most of these women should receive child support payments, obligations had been established on behalf of only 4 million of them. But more than half of these—53.3 percent—received only partial payment or no payment at all. The Census Bureau estimates that these defaults were cheating children out of nearly $4 billion a year. That is a national disgrace.

I, as a former Congresswoman and as the Secretary of Health and Human Services, feel very strongly the destitution, the desperation, and the simple human suffering of women and children who were not receiving child support payments legally owed them. Frankly, it offended my conscience because I believe, as I know all of you do, that a parent's first responsibility is to reasonably provide for the upbringing and welfare of his or her children. To deny that responsibility is a cowardly act.

I discussed my concerns with the President and found in him a sympathetic audience. He was not only aware of the problem, he was knowledgeable about it. As Governor of California, he had taken the lead in achieving the passage of effective support enforcement laws in his own State. He has been the chief advocate in California and at later congressional hearings for the establishment of a fair, tough, and effective program.

As President, he had proposed some important changes in the way the Federal child support enforcement program worked. And as a man concerned about families and children, he felt that the existing system, which allowed too many parents to walk away from their prime responsibility, was unconscionable.

When I mentioned to him that some Members of Congress had reservations about his original proposals, he encouraged me to discuss these reservations with the Members, to find out what suggestions they had, and to construct the best possible bill.

This bill encompasses the contributions of the ranking Republican of this committee, as well as the Republican women Members of Congress—and I have to say, especially of Congresswoman Roukema, who was very outstanding in our meeting with the President. Their insight, as well as that of your staff, Mr. Chairman, and the staff of the minority, especially Martha Phillips, have been very, very valuable to the President and to me in crafting this legislation.

The child support enforcement program is a joint Federal, State, and local effort aimed at insuring that children are supported financially by their parents, fostering family responsibility, and reducing the cost of welfare to the taxpayer.

The amendments I am submitting are designed to improve State efforts to collect for both AFDC—welfare—families and for non-AFDC families. We aim to do that in two ways: First, by changing the funding of the program so that States will have an incentive to improve their programs; and second, by requiring States to adopt practices that have been effective in increasing support collections.

The present way we finance these programs is outdated. Most Federal dollars are paid out based on what States spend, not on the results they achieve. Even the 19 States that spend more than they collect gain financially from the present program. As a result, the taxpayer loses, and the children continue to suffer.

Now you can see from this chart that the program performance is diverse and shows room for improvement. The cost effectiveness of child support dollars collected for each dollar of total administrative costs is shown.

Now, in terms of AFDC, 19 States collect more than each dollar that is spent in administrative costs. In the 10 best States in which we have good programs, the amount collected is $2.47 for every dollar invested. The national average is $1.33.

The 10 worst States collect only 49 cents on the dollar, so the Federal Government is paying 70 percent of the $1 cost; the State is paying 30 percent, and the return is 49 cents.

In the non-AFDC area, 29 States collect less than $1 for each dollar spent in collection costs, showing that when the States are effective in, again, the 10 best States, they receive $3.46 for the dollar spent and in the 10 worst States for each dollar spent, the return is 16 cents.

Now, these are the figures that have been put together from the data collected through our enforcement of the program at the Department of Health and Human Services. There are wide variations of effectiveness in the State programs. If we look at families receiving AFDC payments, families that make up about one-third of all families owed child support, six States have especially good programs. They account for 88 percent of all the support collected and spend 32 percent of the total administrative funds.

The remaining States spend 68 percent of the funds but account for only 12 percent of welfare savings. The statistics for nonwelfare families are just as erratic.

Now, here you have a chart that shows just exactly what I am talking about. In terms of the costs, six States actually recover 88 percent of the amount of support recovered. That was $160 million. Now this is only the six States. Forty-eight States and jurisdictions recover only 12 percent, $20 million.

Now, the States with effective systems only use 32 percent of the total administrative costs. This is very cost effective for the Government as well.

The other States, which are responsible for 12 percent of savings eat up 68 percent of the administrative funds. Now, this, I think, shows quite dramatically why the current system which simply funds the State programs based on what they spend is not effective in terms of getting results.

In fact, a GAO report released in March concludes that "based on the manner in which the program is currently funded, States have little incentive to increase performance."

GAO also agrees that relating program funding to program performance is a step in the right direction.

We propose to reward effective State performance by paying bonuses to those States that establish superior records in collecting for welfare and nonwelfare families.

To do this, we would repeal existing incentives which give States bonuses of 12 percent of their AFDC collections. A new system of incentives—amounting to about $200 million—would be created.

Under this legislation, these incentives would be paid to States based equally on their AFDC and non-AFDC performance, because we feel that it is very important to strictly enforce child support collection for both welfare and nonwelfare families.

Our proposal increases total incentive payments by about $83 million over what would have been available under the 12-percent AFDC bonus incentive, and, even more important, provides equal recognition for non-AFDC performance.

Part of the $200 million in the new incentive fund will come from reducing Federal Government payments of State administrative costs. Currently, we pay 70 percent of administrative costs incurred by States in running their child support collection programs. Under these amendments we would pay 60 percent of those costs and use the money saved to reward the States doing the best job.

As you can see from that chart, changes in that system of funding administrative costs are really overdue.

AFDC collections would continue to be shared between the Federal and State Governments based on each State's AFDC matching rate, as they are now.

As I mentioned earlier, we would also require States to adopt proven enforcement techniques for AFDC and non-AFDC cases: mandatory deduction from wages; quasi-judicial or administrative processes; and interception of State income tax refunds.

First, a new technique which our legislation would impose on the States is mandatory withholding from wages. States would have to adopt laws requiring automatic deduction of support from wages if an absent parent falls behind by 2 months in making payments. These laws would apply to welfare and nonwelfare cases and to interstate collections.

In the State of New York, for example, the payment rate doubled from 40 percent to 80 percent for cases covered by mandatory withholding. So we know this is an effective technique.

A second technique would be interception of State income tax refunds. Any State which has an income tax would be required to intercept refunds when support owed an AFDC child is overdue. At State option, the intercept technique could also be extended to non-AFDC families.

A third technique used would be quasi-judicial or administrative processes; States would have to adopt these processes to help reduce court backlogs in issuing and enforcing support orders.

These techniques are simple, inexpensive, and will significantly increase collections. Additional techniques may also be beneficial depending on individual State circumstances. We encourage States to examine all practices and to determine the potential benefit of some of the alternatives based on their own experience.

We are confident that these techniques can improve the child support enforcement program while safeguarding the rights of those who have child support obligations.

The bill also establishes several different kinds of fees. A nonwelfare family would pay at least a $25 application fee for services provided by a State, or else the State would have to pay such a fee out of its own funds. Now, this $25 has to be compared to the legal costs of going into court to enforce a decree, costs which could be $200 or more. A reasonable ceiling could be set on this fee by regulation.

Under our legislation, in a very significant departure from current practice, collection fees would also be imposed on the absent parents who failed to meet their obligations in a timely manner. Their fee would be set by the State within the range of 3 to 10 percent.

The most important feature of this fee is that it would not be deducted from the amount due the family, which is the current practice. The Federal share of all these fees will be deposited in the pool for State bonus payments.

Our bill contains several other provisions to upgrade the child support enforcement program. We would improve the existing provisions regarding annual audits of State compliance with statutory requirements and penalties on title IV-A funding for noncompliance.

Audits, conducted at least triennially, would focus more on program effectiveness rather than on simple compliance with processes. States would be required to take corrective action based on the results of the audit.

If they failed to take such action, a realistic penalty would be imposed on the Federal AFDC moneys. This penalty would be graduated according to the severity of the problem and the length of time a State program has been ineffective.

No Secretary has ever utilized that penalty because it has always been considered too severe. I am asking for a graduated set of penalties which would allow the exercise of discretion and a consideration of what the State had done and what penalty would be effective to deal with the problem.

Mr. Chairman and members of the subcommittee, I am deeply grateful for your time and attention. As I said when I began, this is a national disgrace, a terribly serious problem for millions of Americans, many of them essentially helpless.

You have before you several proposals addressing this problem, but we believe that the administration's bill is the best possible way to achieve our common goal of assuring that children receive the support to which they are entitled.

We are willing and anxious to work with the subcommittee in every possible way to speed passage of our proposals.

Thank you.

Chairman **FORD**. Thank you, Madam Secretary, for your testimony. Once again, we thank you for coming before the committee.

[The prepared statement and attachments follow:]

STATEMENT OF HON. MARGARET M. HECKLER, SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Chairman and members of the committee, I am here today to discuss a serious problem, a very serious problem for millions of women and children in this country: the failure of absent parents to support their children. According to the Census Bureau, more than 8.4 million women in 1981 were raising children whose fathers were absent. Thirty percent of these women and children were living in poverty. Although most of these women should receive child support payments, obligations had been established on behalf of only 4 million of them. But more than half of these—53.3 percent—received only partial payment or no payment at all. The Census Bureau estimates that these defaults were cheating children out of nearly $4 billion a year. That is a national disgrace.

I know that many of you have taken a personal interest in this problem, and I commend the chairman for holding this hearing. I know that you feel as deeply as I do that the time has come to put in place a truly effective child support enforcement program.

When I became Secretary of Health and Human Services, I brought to this office a concern about child support problems. As a Congresswoman, I had seen—too often—the destitution, the desperation, and the simple human suffering of women and children who were not receiving child support payments legally owed them. Frankly, it offended my conscience because I believe, as I know all of you do, that a parent's first responsibility is to reasonably provide for the upbringing and welfare of his or her children. To deny that responsibility is a cowardly act.

I discussed my concerns with the President and found in him a sympathetic audience. He was not only aware of the problem, he was knowledgeable about it. As Governor of California, he had taken the lead in achieving the passage of effective support enforcement laws in his own State. He has been the chief advocate in California and at later Congressional hearings for the establishment of a fair, tough, and effective program. As President, he had proposed some important changes in the way the Federal child support enforcement program worked. And as a man concerned about the family and children, he felt that the existing system, which allowed too many parents to walk away from their prime responsibility, was unconscionable.

When I mentioned to him that some Members of Congress had reservations about his original proposals, he encouraged me to discuss these reservations with the Members, to find out what suggestions they had, and to construct the best possible bill.

I have done that. And, the child support legislation I am proposing today incorporates many of the ideas offered by concerned Congressmen and Congresswomen. The President fully supports these proposals. Special thanks are due the Republican women Members of Congress especially Congresswoman Roukema. Their knowledge and their insight have been immensely helpful to the President and to me.

The child support enforcement program is a joint Federal, State, and local effort to ensure that children are supported financially by their parents, to foster family responsibilty, and to reduce the cost of welfare to the taxpayer. The amendments I am submitting are designed to improve State efforts to collect both for AFDC—welfare—families and for non-AFDC families.

We aim to do that in two ways: first, by changing the funding of the program so that States will have an incentive to improve their programs; and second, by requiring States to adopt practices that have been effective in increasing support collections.

The present way we finance these programs is outdated. Most Federal dollars are paid out based on what States spend, not on the results they achieve. Even the 19 States that spend more than they collect gain financially from the present program. As a result, the taxpayer loses, and children continue to suffer.

Currently, there are wide variations in the effectiveness of State programs. If we look at families receiving AFDC payments—families that make up about one-third of all families owed child support—families that make up about one-third of all families owed child support—six States account for 88 percent of all support collected, but spend only 32 percent of total administrative funds. The remaining States spend 68 percent of total funds but collect only 12 percent of welfare savings. The statistics for nonwelfare families are just as erratic.

In fact, a GAO report released in March concludes that "based on the manner in which the program is currently funded, States have little incentive to increase performance". GAO also agrees that relating program funding to program performance is a step in the right direction.

We propose to reward effective State performance by paying bonuses to those States that establish superior records in collecting for welfare and nonwelfare families.

To do this, we would repeal existing incentives which give States bonuses of 12 percent of their AFDC collections. A new system of incentives—amounting to about $200 million—would be created. Under this legislation, these incentives would be paid to States based equally on their AFDC and non-AFDC performance.

Our proposal increases total incentive payments by about $83 million over what would have been available under the 12 percent AFDC bonus incentive, and, even more important, provides equal recognition for non-AFDC performance.

Part of the $200 million in the new incentive fund will come from reducing Federal Government payments of State administrative costs. Currently, we pay 70 percent of administrative costs incurred by States in running their child support collection programs. Under these amendments, we would pay 60 percent of those costs and use the money saved to reward the States doing the best job.

AFDC collections would continue to be shared between the Federal and State governments based on each State's AFDC matching rate, as they are now.

As I mentioned earlier, we would also require States to adopt proven enforcement techniques for AFDC and non-AFDC cases: mandatory deduction from wages, quasi-judicial or administrative processes, interception of State income tax refunds.

First, mandatory withholding from wages. States would have to adopt laws requiring automatic deduction of support from wages if an absent parent falls the equivalent of two months behind in making payments. These laws would apply to walfare and nonwelfare cases and to interstate collections. In the State of New York, the payment rate doubled from 40 to 80 percent for cases covered by mandatory withholding.

Second, interception of State income tax refunds. Any State which has an income tax would be required to intercept refunds when support owed an AFDC child is overdue. At State option, the intercept technique could also be extended to non-AFDC families.

Third, quasi-judicial or administrative processes. States would have to adopt administrative or quasi-judicial processes to help reduce court backlogs in issuing and enforcing support orders.

These practices are simple, inexpensive, and will significantly increase collections. Additional techniques may be beneficial depending on individual State circumstances. We encourage States to exaimine these practices and to determine the potential benefit based on their own experience.

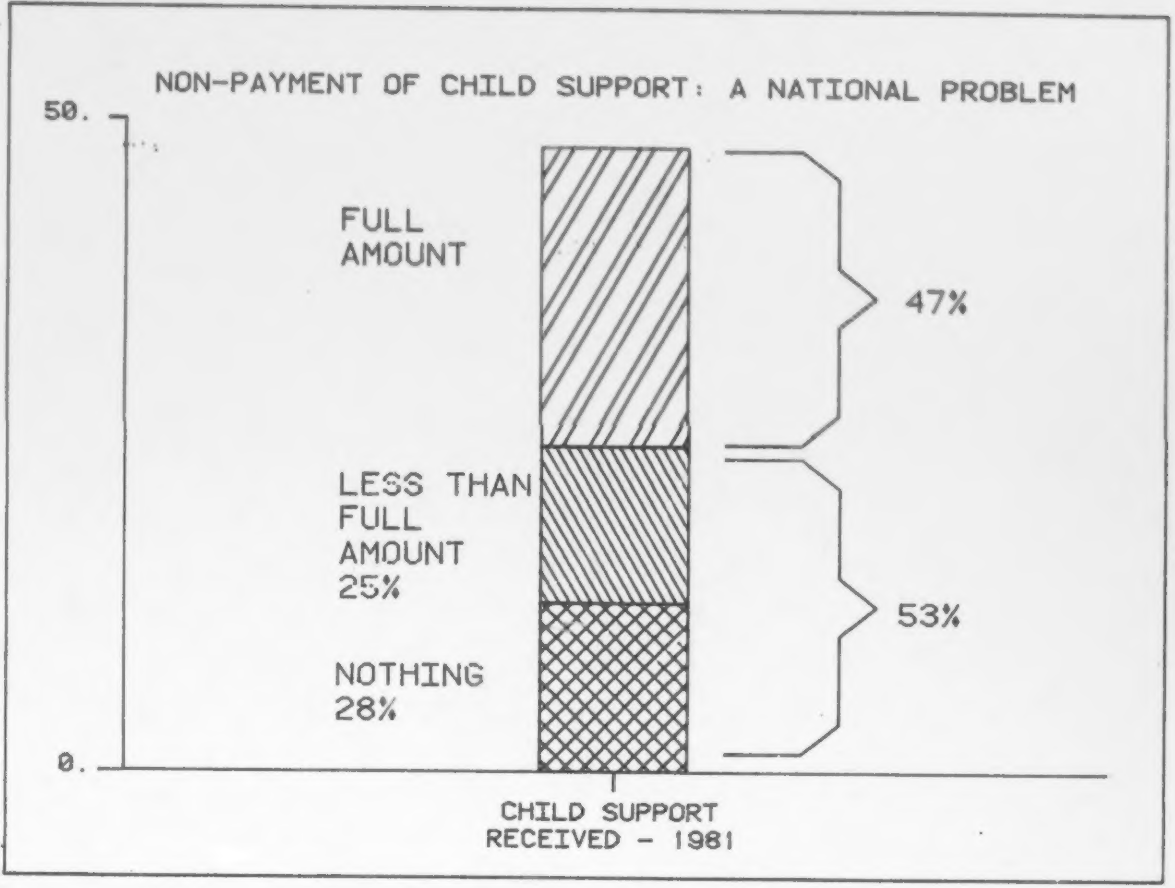
We are confident that these techniques can improve the Child Support Enforcement program while safeguarding the rights of those who have child support obligations.

Fourth, the bill establishes several different kinds of fees. A non-welfare family would pay at least a $25 application fee for services provided by a State, or the State would have to pay such a fee out of its own funds. A reasonable ceiling would be set on this fee by regulation. Under our legislation, and in a very significant departure from current practice, collection fees would also be imposed on absent parents who fail to meet their obligations in a timely manner. This fee would be set by the State within a range of 3 to 10 percent.

This fee is not to be deducted from the amount due to the family. The Federal share of all these fees will be deposited in the pool for State bonus payments.

Our bill contains several other provisions to upgrade the child support enforcement program. We would improve the existing provisions regarding annual audits of State compliance with statutory requirements and penalties on Title IV-A funding for non-compliance. Audits, conducted at least triannually, would focus more on program effectiveness rather than simple compliance with processes. States would be required to take corrective action based on the results of the audit. If they failed to take such action, a realistic penalty would be imposed on their Federal AFDC monies. This penalty would be graduated according to the serverity of the problem and the length of time a State has been ineffective.

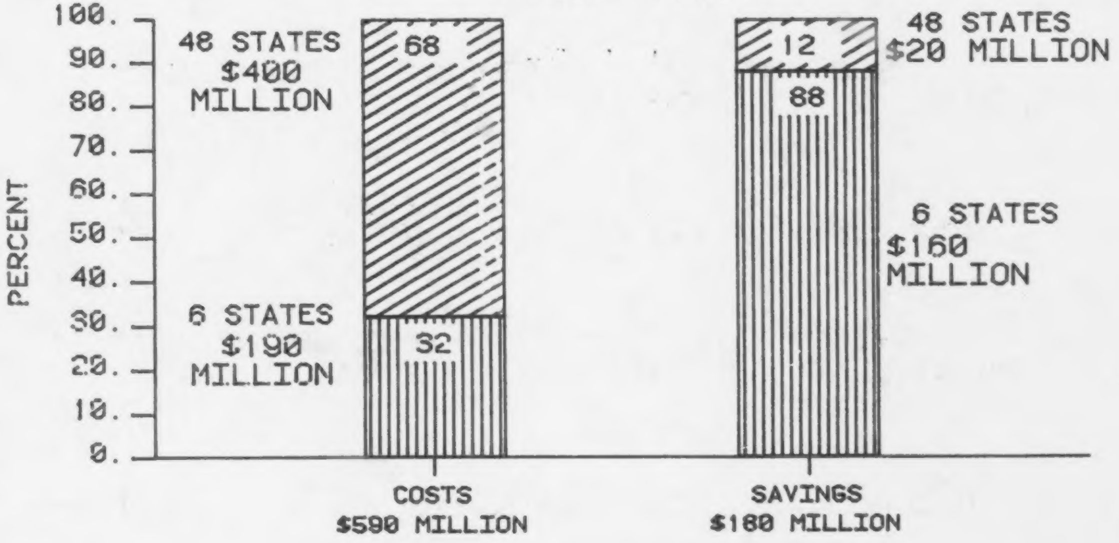
Mr. Chairman and members of the subcommittee, I am deeply grateful for your time and attention. As I said when I began, this is a terribly serious problem for millions of Americans, many of them essentially helpless. You have before you several proposals addressing this problem, but we believe that the administration's bill is the best possible way to achieve our common goal of assuring that children receive the support to which they are entitled. We are willing and anxious to work with the Subcommittee in every possible way to speed passage of our proposals. Thank you.


NON-PAYMENT OF CHILD SUPPORT: A NATIONAL PROBLEM
50.
0.
FULL AMOUNT
LESS THAN FULL AMOUNT 25%
NOTHING 28%
47%
53%
CHILD SUPPORT RECEIVED - 1981

PROGRAM PERFORMANCE IS DIVERSE AND SHOWS ROOM FOR IMPROVEMENT

COST EFFECTIVENESS CHILD SUPPORT DOLLARS COLLECTED FOR EACH DOLLAR OF TOTAL ADMINISTRATIVE COSTS	COLLECTION DATA (FY 1982)		
	TEN BEST STATES	NATIONAL AVERAGE	TEN WORST STATES
AFDC (18 STATES COLLECT LESS THAN $1.00)	$2.47	$1.33	$0.49
NON-AFDC (28 STATES COLLECT LESS THAN $1.00)	$3.46	$1.65	$0.16

COST VERSUS
WELFARE SAVINGS
FISCAL 1982



COSTS OUTSTRIP COLLECTIONS
FOR AFDC FAMILIES IN 19 STATES

REQUIRE STATES TO USE PROVEN ENFORCEMENT TECHNIQUES

- AUTOMATIC WAGE WITHHOLDING WHENEVER UNPAID SUPPORT OBLIGATIONS EQUAL TWO MONTHS
- WITHHOLDING OF STATE INCOME TAX REFUNDS TO OFFSET ARREARAGES
- ADMINISTRATIVE OR QUASI-JUDICIAL ENFORCEMENT PROCESSES TO ADDRESS COURT BACKLOGS
- COLLECTION FEES CHARGED TO ABSENT PARENTS WHEN PAYMENTS ARE OVERDUE

SECTION-BY-SECTION SUMMARY OF THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1983

PAYMENTS IN RECOGNITION OF EFFECTIVE PROGRAM ADMINISTRATION; FEDERAL PARTICIPATION IN STATE ADMINISTRATIVE COSTS

Section 2 of the draft bill would make a series of amendments, primarily to the statutory provisions for Federal financial participation in the administrative costs of the child support enforcement program, which are directed toward achieving more efficient and effective program administration.

Subsection (a) of the bill would add a new subsection (e) to section 455 of the Social Security Act, authorizing the Secretary to make payments to States in recognition of exemplary performance in the administration of their child support enforcement programs. The formula for determining the amounts would be specified by the Secretary in regulations. The Secretary could consider factors such as levels of both AFDC and non-AFDC collections, improved collections-to-cost ratios, and AFDC cost avoidance in an amount that the Secretary finds may reasonably be attributed to the successfully operated program. These factors could be measured, if the Secretary chooses, against a State's prior performance, the national average performance, or any combination of these factors. The total amount distributed as "recognition" payments with respect to AFDC collections, and the amount of those payments based on collections for non-AFDC families, must be equal. Further, the Secretary is directed to review the criteria for determining the amount of the recognition payments at least once every two years, and to adjust the formula as he finds appropriate, in order to improve, to the maximum extent, the performance of State child support enforcement programs.

Subsection (b) amends section 455(a) of the Act to reduce from 70 to 60 percent the Federal matching rate for State administrative costs. Technical and conforming amendments to the remainder of section 455 are also made by this subsection and by subsection (c).

Subsection (d) continues by revising the language of section 457, pertaining to distribution of amounts collected, in order to delete obsolete language and otherwise clarify the provision; however, no substantive change is made in the payment of collections to the family (or on behalf of a child in foster care).

Subsection (e) would repeal section 458, the statutory authority for the 12 percent incentive payments.

Subsection (f) of this section would add a new section 458 to the Social Security Act (replacing the section previously repealed). Discretionary grants to States would be authorized for development or improvement of child support clearinghouses and other information management systems. The authority would replace various provisions of existing law, that are intermingled with the State plan requirements and the Federal responsibilities, but the intent is that this will be a continuation and expansion of the same type of activities as have already been initiated by many States. The child support clearinghouses would be information systems through which the State could enter and track support obligations and payments. This information, together with the wage withholding authority (established by a later amendment below), would greatly enhance each State's ability to collect child support and to participate in an efficient interstate collection network. For this reason, States will be encouraged to develop their information clearinghouses with some uniformity, or at least compatibility, so as to facilitate interstate exchange of information and cooperation in making collections. This will be further clarified by restating in the regulations many of the detailed criteria for these systems that are currently set out in the statute. The Secretary could provide grants for both the first and subsequent years of a system development project, and specify the State financial contribution, of at least 10 percent and up to 30 percent of total costs. In-kind matching by the State would not be allowed.

Such sums as are necessary may be appropriated; funds appropriated will remain available until expended.

Subsection (g) of this section provides that these amendments will be effective October 1, 1983.

IMPROVED EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT PROGRAMS

Section 3(a) of the bill would strengthen the State plan requirements applicable to child support enforcement services for non-AFDC families. First, section 454(6)(B) of the Act would be amended to require States to charge an application fee when services are provided for a non-AFDC case. The fee must be at least $25, but could not exceed a reasonable ceiling determined under regulations to be prescribed by the

Secretary. States could pay this application fee if they wished, but those payments would be excluded from total State expenditures, as would any other fees or charges collected. Further, subparagraph (C), pertaining to charges for collection services, would also be amended. Charges could only be imposed on the absent (obligor) parent; the amount collected on behalf of the child (or child and custodial parent) would not be reduced by the imposition of collection charges. The imposition of these charges would be required if there were an arrearage in the payment of child support. Also, the State would be required to continue imposing charges in (what started as) an arrearage case for a future period to be specified by the Secretary in regulations.

The rate charged by the State may range from between 3 and 10 percent of the amount of the current month's child support (or, in an arrearge case, that percent of the arrearage and the amount of support payable for the current month). Also, State law must provide for imposing liability for these charges upon the absent parent with respect to support payable after enactment of these amendments, and for the provision of notice to the obligor parent of this liability. The law would explicitly provide, however, that the imposition of collection charges upon the absent parent should not occasion a reduction in the amount of support that would otherwise be provided for the child's support.

Subsection (b) of the draft bill would amend section 454 of the Social Security Act to require all States to use certain practices which have been tried by some States and shown to be most successful in improving the effectiveness of their child support enforcement programs. Specifically, paragraph (1) of this subsection would add a new paragraph (20) to the State plan requirements, which would require States, in addition to all other requirements of part D, to carry out the procedures described in (a new) section 467.

Paragraph (2) then adds a new section at the end of part D, setting out in some detail the criteria which State programs must meet in implementing (1) withholding from wages to collect support payments, (2) quasi-judicial or administrative procedures to implement the child support enforcement program, and (3) procedures under which States which impose a personal income tax would intercept refunds otherwise due parents with delinquent support obligations.

1. *Wage withholding.*—States would be required to have in effect procedures under which wages are withheld to collect support. The State could use this as a routine collection device, but, at the latest, must begin withholding, without further enforcement action, once the parent had failed to make payments under a support order and the delinquency equaled the support payable for two months or longer. Prior to notifying the employer, the State would have to take steps prescribed by the Secretary in regulations to protect the procedural rights of the parent. The parent would have to be given notice of the default and of procedures he must follow if he wishes to contest the action. Thereafter, notice would be given to the employer, and the employer would be required to withhold the amount stated in the notice and pay it to an authorized person (within the meaning of section 465(b) of the Act) for appropriate distribution. The notice to the employer would also specify the amount he may, unless he waives payment, retain as a fee for the cost of effectuating the withholding. If an arrearage were involved, the fee must be added on to the support withheld; in other words, the debtor-parent bears the cost. In other cases, the State may decide whether the fee, if any, should be additional to or subtracted from the support withheld (or a combination). However, in all cases, the amount of the fee must accord with criteria prescribed by the Secretary. An employer who fails to comply with a notice to withhold from wages would become liable for the amount that he failed to withhold, up to the amount of the arrearage. Provision would also have to be made for terminating the withholding, and for imposing a fine on an employer who discharges a parent because of the support withholding.

Also, the State agency would have to notify the corresponding agency of any other State in which an individual was working if he owed support under an order of the (first) State. The procedures adopted by the (second) State pursuant to this requirement would then have to be used to enforce support obligations established by another jurisdiction when notice is given that the parent is working in the State.

This withholding would have priority over all other claims against the wages, and the restrictions on the amount that could be deducted would be limited by section 303(b) of the Consumer Credit Protection Act.

2. *Quasi-judicial or administrative procedures.*—Procedures using other than the traditional judicial forums would have to be developed to establish and enforce support obligations. The procedures could include notice and opportunity for an administrative hearing or the use of court officials other than judges to perform various support related functions, in order to develop more expeditious and less expensive

remedies. These alternative procedures would comport with all due process requirements and would provide for notice of actions to be taken and the opportunity to be heard, and for appeal of the determinations made through the new processes. Generally applicable judicial remedies would only be available upon request of a party, and only to review the previous regulation. Provision would also be made for enforcing the support orders of another State, regardless of the mechanism used for entering them.

3. *Withholding for past-due child support from State income tax refunds.*—Procedures would be put into effect in the State to require, upon proper notice to the State tax authorities from the State child support enforcement agency in order to enforce a support order entered in any State, withholding of past-due support payments from amounts that would otherwise be paid, as a refund of taxes, to the absent parent who is delinquent in meeting his support obligations. The State may apply this provision to AFDC cases only, or to all children for whom collection services are provided under the State plan. (Of course, the State could make this procedure available with respect to all children, but the costs for non IV-D cases would not be costs of carrying out the State plan.)

The Secretary of Health and Human Services must issue regulations prescribing the necessary details for each of these three areas. The use of regulations to specify the particulars of these enforcement techniques is more effective than spelling out every element in the law, since requirements can be developed in the alternative, can be performance based, where appropriate, and can be more readily adjusted if it should appear necessary based on unusual circumstances in individual States. Further, if the State produces detailed factual data to support its contention that a particular procedure required under this section would not improve the efficiency or effectiveness of its program, the Secretary could grant a limited exemption, subject to later review, from the requirement.

Subsection (c) specifies an effective date of October 1, 1983, for adoption by the State of these various procedures. However, if the State demonstrates to the Secretary of Health and Human Services that it is precluded under State law from complying with one or more of these requirements, the Secretary may delay the effective date to which the legal impediment pertains until the enactment of enabling legislation, or, if earlier, the close of the first State legislative session (of any type) that begins after September 30, 1983 (or earlier, but which runs for at least 25 days past that date).

PERIODIC REVIEW OF EFFECTIVENESS OF STATE PROGRAMS; MODIFICATION OF PENALTY

Section 4 of the draft bill would amend section 452(a)(4) of the Social Security Act, the provision currently requiring an annual audit of State child support enforcement programs to determine their compliance with all statutory requirements and to determine whether the penalty provision (which operates to reduce AFDC matching) should be applied. The amendment would require that the program audit be conducted not less frequently than triennially (rather than annually) to determine whether the program substantially complies with the requirements of part D. This amendment would be effective after September 30, 1982.

Subsection (b) would amend the 5 percent penalty provision contained in section 403(h) of the Act. It would prescribe instead a graduated penalty, should a program be found to be inconsistent with the requirements of section 452(a)(4). Thereafter, for so long as the noncompliance continued, after a period allowed for corrective action as would be prescribed by the Secretary, a reduction of AFDC matching up to 2 percent would be applied. However, if it were the second consecutive occasion following which there was failure to take timely corrective action, a penalty of up to 3 percent could be applied, or, if it were the third or subsequent occasion, the penalty could be raised to 5 percent. This amendment would become effective October 1, 1983.

INCREASED AVAILABILITY OF PARENT LOCATOR SERVICE TO STATE AGENCIES

Section 5 of the draft bill would amend section 453(f) of the Social Security Act, effective upon enactment, by deleting the condition that States must, in effect, exhaust State child support enforcement resources before they may have resort to the Federal Parent Locator Service.

EXTENSION OF SECTION 1115 DEMONSTRATION AUTHORITY TO CHILD SUPPORT ENFORCEMENT PROGRAM

Section 6 of the draft bill would amend section 1115(a) of the Social Security Act, the authority for waivers in order to conduct experimental and demonstration projects under the assistance titles, to include the child support enforcement program within the scope of the demonstration authority. States would then have increased flexibility available to try innovative approaches to child support enforcement and thereby improve program effectiveness. This amendment would become effective upon enactment.

MODIFICATIONS IN TIMING AND CONTENT OF REPORT BY SECRETARY

Section 7 of the draft bill would amend section 452(a)(10) of the Act to make minor modifications in the Secretary's reporting responsibilities. The due date for the Secretary's annual report to the Congress on child support activities would be extended by 3 months (to 6 months after the close of the fiscal year) to provide more adequate time for the receipt and analysis of States' fourth quarter data. Also, the requirement that there be separate identification of cases involving spousal support would be deleted, since States cannot distinguished those cases, except with great difficulty. At the same time, States would be required to identify interstate cases, so that State collection rates can be more accurately determined, and to allow more complete response to congressional inquiries on this subject. Two other minor technical amendments are also made. This amendment would apply to reports due after September 30, 1982.

CHILD SUPPORT COLLECTION FOR CERTAIN CHILDREN IN FOSTER CARE

Section 8 of the draft bill would make various amendments to part D of title IV of the Social Security Act to recognize enforcement of child support obligations on behalf of children receiving foster care payments.

Subsection (a) amends section 457 by adding a new statutory directive for distribution of support collections under part D of title IV. The new subsection (d) of section 457 would parallel the distribution pattern specified in subsection (b), except that collections for the current period, in excess of the amount equal to current foster care maintenance assistance, are paid to the public agency responsible for supervising the placement of the child, rather than the family from which the child was removed, to be used in the best interests of the child.

Subsection (b) makes other necessary conforming amendments within part D of title IV to provide for cases in which the State collects child support on behalf of children for whom it is making foster care payments.

Subsection (c) would add a new paragraph to section 471(a) of the Act, the requirements for State plans for foster care and adoption assistance. These plans would have to provide that all steps would be taken to secure an assignment of support (in the same way that support is assigned under the AFDC program) on behalf of a child for whom the State agency is making foster care maintenance payments.

Subsection (d) specifies that these amendments would apply to collections made after September 1983.

A BILL To amend the Social Security Act to recognize effective program administration in the financing of State programs of child support enforcement, to improve the ability of States to collect child support for non-AFDC families, and otherwise strengthen and improve such programs and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Support Enforcement Amendments of 1983".

PAYMENTS IN RECOGNITION OF EFFECTIVE PROGRAM ADMINISTRATION; FEDERAL PARTICIPATION IN STATE ADMINISTRATIVE COSTS

SEC. 2. (a) Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e) The Secretary shall prescribe by regulation criteria pursuant to which he will from time to time make payments, in addition to amounts authorized under subsection (a), to each State agency administering a plan approved under this part whose program is found to be exemplary in the amount of collections made, the cost efficiency with which the program is operated, or the magnitude of the costs to other assistance programs that the Secretary finds could reasonably have been expected to occur but for the operation and the effective performance of the State's program. The Secretary, in recognizing such performance, may consider factors such as the amount of a State's collections in a prior or base period and the cost efficiency of a State's program as compared to other State programs (or to the national average of such programs). The total amount paid by the Secretary under this subsection for any fiscal year with respect to collections on behalf of individuals receiving aid to families with dependent children shall be equal to the amount paid under this subsection with respect to collections on behalf of individuals for whom services are provided under section 454(6). The Secretary shall, not less frequently than biennially, review and, if necessary, revise the criteria in order to further encourage and recognize effective child support enforcement programs.".

(b) Section 455(a) of the Act is amended—

(1) by striking out "70 percent" in paragraph (1) and inserting instead "60 percent", and by adding "and" at the end of such paragraph,

(2) by striking out ", and" after paragraph (2) and inserting a semicolon instead,

(3) by striking out paragraph (3), and

(4) by adding at the end of section 455(a) the following new sentence: "In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees collected or other income resulting from services provided under the plan approved under this part.".

(c) Section 455(b) of the Act is amended—

(1) by striking out in paragraph (1) "under subsection (a)" and inserting instead "under subsections (a) and (e)", and

(2) by striking out "investigation" in paragraph (1)(B) and inserting instead "information".

(d)(1) Section 457(a) of the Act is amended to read as follows:

"Sec. 457. (a) The amounts collected by a State pursuant to a plan approved under this part as support for one or more members of a family receiving aid to families with dependent children pursuant to a plan approved under part A shall be paid to the family to the extent that such amounts, from collections made periodically which represent monthly support payments, exceed the amount of such aid paid to the family during such period but do not exceed the amount required by a judicial, quasi-judicial, or administrative order to be paid during such period to the family. Amounts in excess of those required to be paid to the family under the preceding sentence shall be retained by the State to the extent they do not exceed the total amount of such aid previously paid to the family (and with respect to which past collections have not been retained); any balance shall be paid to the family.".

(2) Subsection (b) of section 457 is repealed.

(3) Subsection (c) of section 457 is redesignated as subsection (b) and is amended by striking out "subsection (b)(3) (A) and (B) with respect to excess amounts described in subsection (b)" and inserting instead "subsection (a)".

(4)(A) Section 452(d)(2) (A) and (B) are each amended by striking out "section 455(a)(3)" and inserting instead "section 454(16)".

(B) The last sentence of section 453(a) is repealed.

(C) Section 454(5) of the Act is amended by striking out "section 457(c)" and inserting instead "section 457(b)".

(D) Section 464(a) of the Act is amended by striking out "section 457(b)(3)" and inserting instead "section 457(a)".

(e) Section 458 of the Act is repealed.

(f)(1) Part D of title IV of the Act is amended by adding after section 457 the following new section:

"GRANTS TO STATES FOR CHILD SUPPORT CLEARINGHOUSES AND OTHER INFORMATION MANAGEMENT SYSTEMS

"Sec. 458. (a) The Secretary is authorized to make grants to States to assist in the development or improvement of clearinghouses and other information management systems to aid in the enforcement of support by facilitating the collection and exchange, both within a State and among States, of child support information, including information concerning—

"(1) amounts of support ordered (or agreed between the parties) to be paid with respect to children residing in the State;

"(2) amounts of support ordered (or agreed) to be paid by parents employed in the State; and

"(3) amounts of support collected or paid with respect to such children or from such parents and the dates upon which it was paid (either to the State or to the child's custodial parent or guardian);

and to provide for the orderly receipt and dissemination, both within a State and to the appropriate agencies of cooperating States, of information relating to support obligations of and payments from, parents residing or employed in the State.

"(b) The Secretary shall by regulation prescribe the required characteristics and capabilities of an information management system to be funded under this section. Any State desiring to receive a grant hereunder shall submit an application, in such form and containing such information as the Secretary may require, and including a description of the proposed system, and the planning and analysis necessary to establish that system.

"(c)(1) Grants under this section may be made for such period as is specified in the grant award; grants for the continuation of the project in subsequent years may be made, but only if the State has provided such information as the Secretary may require on the development or improvement of the system over the period for which funding had previously been provided.

"(2) The Secretary shall specify the share of the project costs, over the period for which the grant is made, to be required in the form of a financial contribution from the State (other than in the form of goods, services, use of facilities, or similar inkind contributions) in an amount at least equal to 10 percent, but no more than 30 percent, of the total cost of the project for such period. Payments under this section may be made at such time or times as the Secretary may determine, and may be made in advance or by way of reimbursement (with necessary adjustments on account of previously made overpayments or underpayments), and in such installments and on such conditions as he may prescribe.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.".

(2)(A) Section 452(d) of the Act is repealed.

(B) Section 452(e) of the Act is amended by—

(i) redesignating it as section 452(d), and

(ii) striking out "section 455(a)(3)" and inserting instead "section 458".

(C) Section 454 of the Act is amended—

(i) by repealing paragraph (16) thereof, and

(ii) redesignating paragraphs (17), (18), and (19) as paragraphs (16), (17), and (18), respectively.

(g) The amendments made by this section shall become effective October 1, 1983.

IMPROVED EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT PROGRAMS

SEC. 3. (a)(1) Section 454(6) of the Social Security Act is amended by striking out all after subparagraph (A) and inserting instead: "(B)(i) an application fee of at least $25 shall be imposed for furnishing such services, except that such fee shall not exceed such amount greater than $25 as determined to be reasonable under regulations of the Secretary, and (ii) the State plan shall specify the class or classes of cases in which the fee will be paid by the State, and those in which it will impose upon the individual applying for such services, (C) any costs of providing collection services may be collected (or, if the absent parent owes past-due support (as defined in section 464(c)), such costs shall be collected) by the imposition of charges, in accordance with regulations of the Secretary, equal to at least 3 percent but not more than 10 percent of the current month's support obligation, or of the current month's obligation and such past-due support, against the absent parent, and (D) the State may continue to collect support and impose collection charges for such period of time as the Secretary may by regulation prescribe (and State law shall provide for the imposition of liability for such collection charges upon the absent parent owing past-due support with respect to support payable for months after the enactment of the Child Support Enforcement Amendments of 1983, and for the provision to such parent of advance notice of that liability), except that, in establishing the amount of support for which the absent parent is obligated, or in collecting charges from the absent parent, the State shall take no action which would have the effect, directly or indirectly, of reducing the support which would otherwise be distributed, in accordance with the provisions of this part, to or on behalf of the child with respect to whom the support is owed;".

(2) Section 455(a)(1)(B) of the Act (as amended by section 2 of this Act) is amended by striking out "fees collected" and inserting instead "fees collected (including fees paid by the State pursuant to section 454(6)(B)(ii))".

(b)(1) Section 454 of the Social Security Act is amended—

(A) by striking out "and" after paragraph (18);

(B) by striking out the period at the end of paragraph (19) and inserting instead "; and"; and

(C) by adding at the end the following new paragraph:

"(20) provide that the State will adopt and fully implement the procedures designed to increase program effectiveness, as set out in section 467.".

(2)(A) Part D of title IV of such Act is further amended by adding at the end the following new section:

"PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT

"SEC. 467. In order to comply with the provisions of section 454(20), each State shall adopt and use the following procedures, consistent with regulations of the Secretary and in accordance with State law, to increase the effectiveness of the program it administers under this part:

"(1) Procedures for carrying out a program of withholding from wages amounts payable as support under which—

"(A) in the case of each absent parent against whom a support order is or has been entered by a State, so much of his wages are withheld as are necessary to comply with the order (but not in excess of amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)), and such withholding begins as soon as is administratively feasible and without the need for amendment of such order not later than the date that (i) such program becomes effective, (ii) such support order becomes effective, or (iii) the payments which the absent parent has failed to make under such order equal the support payable for two months or longer, whichever of the three is latest, or (iv) such earlier date as the State may select;

"(B) the State provides advance notice to each individual to whom subparagraph (A) applies regarding the withholding that will occur and the procedures he must follow if he believes that withholding (including the amount to be withheld) is not proper in his case because of mistake of fact or, if applicable, payment by him of the arrearage;

"(C)(i) the employer of an individual to whom subparagraph (A) applies, upon the State giving notice, is required to withhold from the individual's wage the amount specified by such notice (which shall include a fee to be paid to the employer unless waived by him) and pay it instead (after deducting and retaining any portion of such amount designated by the State as a fee for the employer) to the State (unless the State directs that payment be made to another public entity);

"(ii) the notice given by the State to the employer will specify the amount to be withheld from the employee's wages and the amount to be retained by the employer as a fee for effectuating the withholding, which, in the case of withholding to satisfy an arrearage shall in addition to the amount withheld to satisfy such arrearage, the amount of such fee to be established by the State in accordance with criteria prescribed by the Secretary;

"(D) provision for terminating withholding is made, consistent with such circumstances as the Secretary may by regulation prescribe;

"(E) provision is made for the imposition of a fine against an employer who discharges such an individual from his employment because of the existence of the wage withholding and obligations which it imposes upon the employer;

"(F) the employer is liable for the amount he fails to withhold (up to the amount of the arrearage) from wages following his receipt of proper notice;

"(G) provision is made for giving notice to, and requesting the enforcement of a State support order entered against an individual by, the child support enforcement agency of any other State in which such individual is employed;

"(H) provision is made under State law for the priority of support collection under this subsection over any other legal process against the same wages;

"(2) Quasi-judicial or administrative procedures for entering child support orders in the State, which orders shall have the same force and effect under such State's law as orders entered by a court, and for enforcing support orders entered through the use of judicial, quasi-judicial, or administrative procedures, whether under the procedures of that or any other State, and for limiting the use of the State's generally applicable judicial procedures to review of the orders entered or enforcement action taken only upon request by a party or by the parent with whom the child is living;

"(3) Procedures under which, at the request of the State child support enforcement agency to enforce a support order of that or any other jurisdiction, refunds (if any) of State income tax which would otherwise be payable to an individual are reduced, after notice to him of the proposed reduction and the procedures he must follow if he wishes to contest the reduction, by the amount of any past-due support (as defined in section 464(c)) owed by such individual for the benefit of a child receiving aid to families with dependent children (or, at the option of the State, any child with respect to whom collection services under any other provision of this part are made available) and the amount by which such refund is reduced is paid, for distribution in accordance with section 457, to such State (unless the State directs that payment be made to another public entity) and notice of the individual's home address is furnished to the State agency administering the plan approved under this part.

If a State demonstrates to the satisfaction of the Secretary, through the presentation to him of such data pertaining to caseloads, processing times, administrative costs, average support collections, and any other actual or estimated data he may specify, that the use of any one or more of the procedures required by or pursuant to this section will not increase the effectiveness and the efficiency of the State child support enforcement program, he may exempt the State, for a specified period of time or, in the case of paragraph (2), with respect to a specified political subdivison of the State, and subject to his continuing review should circumstances change, from the requirement to use such procedure or procedures.".

(B) Section 454(9)(C) of the Act is amended by striking out "a court of competent jurisdiction" and inserting instead "judicial, quasi-judicial, or administrative process".

(c) The amendments made by this section shall become effective October 1, 1983, except that if a State agency administering a plan approved under part D of title IV of the Social Security Act demonstrates to the satisfaction of the Secretary of Health and Human Services that it cannot, by reason of State law comply, with the requirements of one or more of such amendments, the Secretary may prescribe that in the case of such State such amendment or amendments, as the case may be, will become effective with (1) the first month beginning after the close of the first session of such State's legislature beginning after September 30, 1983 (or, which began prior to October 1, 1983, and remained in session at least twenty-five calendar days after such date), or (2) the date upon which the State enacts enabling legislation, whichever is earlier. For purposes of this subsection, the term "session of a State's legislature" includes any regular, special, budget, or other session of such State's legislature.

PERIODIC REVIEW OF EFFECTIVENESS OF STATE PROGRAMS; MODIFICATION OF PENALTY

SEC. 4. (a)(1) Section 452(a)(4) of the Social Security Act is amended to read as follows:

"(4)(A) conduct a review of each State's program pursuant to such plan, no less frequently than once every three years, in order to determine such program substantially complies with the requirements of this part and to evaluate its effectiveness in carrying out the purposes of this part;".

(2) Section 402(a)(27) of the Act is amended by striking out "operate a child support program in conformity" and inserting instead "operate a child support program in substantial compliance".

(3) The amendments made by this subsection shall be effective with respect to years beginning after September 30, 1982.

(b)(1) Section 403(h) of the Act is amended to read as follows:

"(h) In the case of any State whose program operated under part D was found by the Secretary not to meet the requirements of such part, and with respect to which corrective action, within such period or periods as the Secretary may by regulation prescribe, has not been adequate to result in the program, after such period or periods, substantially complying with all such requirements, the amount payable under this part for any quarter beginning after September 30, 1983, and after the close of the applicable period for corrective action, shall be reduced by—

"(A) not more than 2 per centum, or

"(B) not more than 3 per centum, in the finding is the second consecutive such finding made, or

"(C) not more than 5 per centum, if the finding is the third or subsequent consecutive such finding made,

and such reduction shall continue until the first quarter throughout which the program is found to meet such requirements.".

(2) The amendment made by this subsection shall become effective October 1, 1983.

INCREASED AVAILABILITY OF FEDERAL PARENT LOCATOR SERVICE TO STATE AGENCIES

SEC. 5. (a) Section 453(f) of the Social Security Act is amended by striking out ", after determining that the absent parent cannot be located through the procedures under the control of such State agencies,".

(b) The amendment made by subsection (a) shall become effective upon enactment.

EXTENSION OF SECTION 1115 DEMONSTRATION AUTHORITY TO CHILD SUPPORT ENFORCEMENT PROGRAM

SEC. 6. Effective upon enactment, section 1115(a) of the Social Security Act is amended—

(1) by striking out "part A" in the material preceding paragraph (1) and inserting instead "part A or D",

(2) by striking out "402" in paragraph (1) and inserting instead "402, 454", and

(3) by striking out "403" in paragraph (2) and inserting instead "403, 455".

MODIFICATION IN TIMING AND CONTENT OR REPORT BY SECRETARY

SEC. 7. (a) Section 452(a)(10) of the Act is amended—

(1) in the matter preceding subparagraph (A), by striking out "three" and inserting instead "six" and by striking out "beginning with the year 1977";

(2) in subparagraph (A), by striking out "and local";

(3) in subparagraph (C), by striking out "collection of spousal support" and inserting instead "interstate child support enforcement" and by striking out "(including the transitional period beginning July 1, 1976, and ending September 30, 1976, in the case of the first report to which this subparagraph applies)"; and

(4) in the matter following subparagraph (H), by striking out "(A)" and inserting instead "(A) or (C)".

(b) The amendments made by subsection (a) shall apply to reports due after September 30, 1982.

CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN IN FOSTER CARE

SEC. 8. (a) Section 457 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the preceding provisions of this section, amounts collected by the State as child support for a month on behalf of a child for whom a public agency is making foster care maintenance payments under part E shall be paid to the public agency responsible for supervising the placement of such child, to the extent that the amounts collected exceed the monthly foster care maintenance payments but not the monthly amount required by a court or administrative order to be paid on behalf of the child or agreed to by one or both parents of such child. The responsible agency may use the payment in the manner it determines will serve the best interests of the child, including setting aside such amounts for his future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs. Amounts in excess of those required to be paid monthly shall be retained by the State to the extent they do not exceed the total of past foster care maintenance payments (or payments of aid to families with dependent children) made on behalf of such child (and with respect to which past collections have not previously been retained); any balance shall be paid to the State agency responsible for supervising the child care placement.".

(b) Part D of title IV of the Act is amended—

(1) by inserting immediately after "such an assignment is effective", in section 454(4)(B), ", including an assignment with respect to a child on whose behalf a State agency is making foster care maintenance payments under part E", and by inserting "or E" immediately after "part A";

(2) by inserting ", in the case of an assignment under section 402(a)(26)," immediately after "except that" in section 454(5); and

(3) by inserting immediately after "section 402(a)(26)", in section 456(a), "or secured on behalf of a child receiving foster care maintenance payments".

(c) Section 471(a) of the Social Security Act is amended—

(1) by striking out "and" following paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting instead "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(17) provides that all steps will be taken including, where appropriate, cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.".

(d) The amendments made by this section shall become effective October 1, 1983 and apply to collections made on or after that date.

Chairman **Ford**. Madam Secretary, we talked about the incentive to pay to the States. I am concerned as to how attractive will the non-AFDC collections be to the States. We understand that with AFDC payments it will reduce their AFDC costs.

My concern right now is with the incentive pay. Do you think that is going to make it that attractive to the States to go after the non-AFDC portion?

Secretary **Heckler**. I do. There is no doubt in my mind that what we really need is a strong emphasis on both AFDC and non-AFDC payments. The President will create a sense of priority on the issue, and as Secretary of HHS, with jurisdiction over enforcement of the program, I also intend to enforce it very stringently.

I think that there is a feature in our bill which is extremely significant to this issue; for the first time, the incentives would be equally divided between the States performance for AFDC and non-AFDC, so that the State would be rewarded for its superior performance in each category. This would equalize the incentives and create a balance, because, as you know, under the current law only the AFDC collections are subject to the incentive reward. So we are changing that to cover both cases.

Chairman **Ford**. That is correct. And also, you have mentioned in your testimony today about the enforcement techniques. You know under present law, with AFDC cases, the States can go to the Internal Revenue Service when the parent has refused to make the payments and can work with them directly.

My concern now is that you talked about withholding from wages and you talked about the four points here dealing with the States.

What about the non-AFDC? Would you be willing to incorporate in the legislation or support the legislation that would also make it mandatory for the non-AFDC to go directly to IRS for the withholdings?

Secretary **Heckler**. We feel that the techniques we have included in our bill will be extremely effective in collecting for both AFDC and non-AFDC families. We mandate State wage withholding for non-AFDC as well as AFDC families.

The issues can best be resolved by stringent enforcement at the State level, and therefore we feel that is the right approach.

Chairman **Ford**. Well, what about the withholdings from the IRS?

Secretary **Heckler**. We feel that the State enforcement is really the right approach to take and that there are many problems in terms of a Federal withholding. The State is most knowledgeable about the amount of funds overdue; our proposal allows the States, the jurisdiction closest to the family, to impose the penalty and the sanctions.

Looking at New York, for example, when they instituted withholding, the increase was from 40 percent to 80 percent, an incredible increase.

We believe that setting a priority on child support enforcement, creating a focus on it as a national obligation which should have been recognized by parents anyway, and mandating the steps we have suggested, will, with good enforcement, achieve the goal we seek.

Chairman **Ford**. But under current law States can notify the IRS for these tardy payments.

Would we be willing to support a provision within this legislation if it is marked up in the subcommittee and reported out of the Congress to also let that apply to non-AFDC?

Secretary **Heckler**. We feel that the State emphasis is the right approach, and that is what we support, the State emphasis.

We just don't think it is an effective way to achieve those savings because the child support determinations are somewhat fluid and the jurisdiction closest to the local enforcement agency—to the family—will have better acces to the current situation.

By tightening and indeed upgrading the techniques for enforcement—mandatory wage withholding, State income tax refund intercept, as well as the other proposals—and establishing the computerized fund, which allows for 90/10 money to create a clearinghouse or other State mechanisms, we are creating a net around each State which can best achieve the goals of the program. A further Federal answer is simply not going to be nearly as effective as what we have already suggested.

Chairman **Ford**. What penalties will the administration or HHS use to enforce this legislation in applying it to the States?

Secretary **Heckler**. Well, Mr. Chairman, I was quite surprised as a new Secretary of HHS to find that I had the authority in law to withhold 5 percent of all a State's AFDC money. But that was my only authority; it was all or nothing. So if a State had serious AFDC problems, then withholding AFDC money, at the rate of 5 percent, was a very, very steep penalty.

At first, I thought it was an attractive opportunity to show my concern for enforcement of the law, but then I realized that the other Secretaries have never used it for the same reason, that it is to severe. I am sure they were concerned about children, too.

I feel that we need a graduated scale of penalties which will allow me the discretion of looking at the States problems and, indeed, creating a set of options which would not really be as inflexible as the 5 percent was, but would be effective.

As part of our legislation, we are proposing administrative discretion, and I certainly would be glad to privately consult with the committee in discussing how this discretion would be utilized. But I think we need the flexibility to look at different State circumstances so that the penalty can meet the crime.

Chairman **Ford**. Well, we talked about the incentive amounting to $200 million for both AFDC and non-AFDC performance. Are we talking about those penalties for AFDC as well as non-AFDC performance?

Secretary HECKLER. Right, total State performance. We want to make no distinction between AFDC and non-AFDC performance.

Aside from the fact that the Federal and State Governments have a special interest in AFDC, because this is a cost borne by the taxpayer, there is the social question of the concern for children. Many of the children whose families may not be AFDC can be pushed into that category simply for the lack of child support enforcement. Aside from that, we have the whole issue of children in America and I think the responsibility of the Government to respond to children's needs.

I have to look at the needs of the women who are the single heads of households. Many are not receiving AFDC benefits, but they have very, very difficult circumstances.

I think that as a matter of policy, we intend in our legislation to enforce the laws equally and stringently for both.

Chairman FORD. You mentioned the 5-percent withholding for the States is already current law. I am concerned whether or not that would apply to non-AFDC performance?

Secretary HECKLER. I am looking for the authority to impose penalties on a graduated basis for both AFDC and non-AFDC because I think we have to have a balanced system. I really do.

Chairman FORD. Well, you know as a father of three and supporting all three of my boys, but like you say, we surely wouldn't want a situation when we have unemployment today at a rate of 10 percent, fathers who have no jobs. We certainly wouldn't want the penalties to be so stiff that when court orders or whatever they might just go out and throw these people in jail and all. We want those who are earning livelihoods to protect and provide for the children.

Secretary HECKLER. That is why I say we want to have the ability to impose penalties, but we would like to have the discretion to look at the justice of the situation and I think that in that case flexibility is important. We hope to achieve the enforcement of a program through incentives, not through penalties. If we create a priority, which this subcommittee is starting to do—and I commend you for that—with the President's support, with the support of the Congress, with my support in enforcing it, I feel we can create a sense of urgency about child support enforcement. We should reward the effective States, especially when we see the statistics showing that only six States achieved 88 percent of the savings. Those six States are doing an outstanding job.

In those other cases, such as those in which the return on a dollar is 16 cents, let's give those States—all States—a sense of priority about child enforcement as a social goal for this society. Second, let's give an enducement to make it worthwhile to invest in a good procedure. We think that the techniques we have sugested will achieve a really effective child support enforcement program.

Chairman FORD. I am a bit concerned about the States having too much control without thinking in terms of the funds that we are trying to collect for the children and what would be imposed upon those fathers who will have to meet these obligations.

Secretary HECKLER. Well, I just would like to say that the only funds we are talking about are financial obligations that the court has established. In those cases, in which there is a change of circumstance, it would be the father's right—and I would presume it is largely fathers although maybe there are a few mothers involved—to have the opportunity to go back into court. Again this is the reason not to use an offset from Federal income tax because there are continuing opportunities in the non-AFDC areas to have decrees, modified if the circumstances warrant that.

And we feel that State jurisdiction, enforcement close to the families, with an administrative process faster than the usual legal approach, which can amount to delay for many families, creates a fast track. This administrative quasi-judicial process will allow for fair adjudication for both parents and protect the interest of the children.

We are only interested in protecting the children's rights as the courts have decreed them, not in getting into court decisions. That is between the parties and the court.

Chairman FORD. Thank you very much, Madam Secretary.

At this time, the ranking minority member, Mr. Campbell.

Mr. CAMPBELL. Thank you very much, Mr. Chairman.

Madam Secretary, I was interested in one line of questioning by the chairman and I have before me some testimony that was given before the Senate Finance Committee on June 20 and 21 in which an administrator of a support enforcement division in a certain State at that time gave the following testimony. She said:

> In none of the child support conferences I have attended have I heard a Federal official tell us that we should put non-AFDC support enforcement or paternity determination at the top of the priority list. Rather, we were advised to tell applicants they must expect to get very little service.

Now, I want to congratulate you because as I hear your testimony and see what you have presented, you are, in fact, departing from the past way we have operated since 1975 on this matter and are saying that every parent has the obligation to provide support and that the obligation will be enforced regardless of income status. Is that correct?

Secretary HECKLER. Absolutely.

Mr. CAMPBELL. Well, I think that that certainly is a major departure by the administration and the department and I want to make sure we stay with that.

Secretary HECKLER. I have to say this particular provision was the subject of a discussion at the White House yesterday at which the Congresswoman and I met with the President and asked for his support. I recommended that, and he strongly supported it. We feel very strongly that this is a very significant departure. It will be the first time there will be a total child support enforcement program that looks equally at the interests of children whether they come from the welfare family or the nonwelfare family, and incorporate the same incentives for both.

Mr. CAMPBELL. Just for a minute to pursue that. Isn't it also very true that oftentimes when a family splits up, the financial circumstances become such that unless the child support obligations are met that family is forced into an AFDC or welfare situation?

Secretary HECKLER. Exactly.

Mr. CAMPBELL. And we are seeking to prevent that and also, of course, seeking to prevent the children from being pushed down to a lower subsistence level.

Secretary HECKLER. Yes. As I said, even in the cases of court-ordered support payments, 53 percent are not enforced fully. In a third of the cases, there is no enforcement of the child support payment at all—none. And indeed, many of the nonwelfare families can be pushed into the welfare category due to a lack of these essential payments for child support. We are not talking about alimony. We are just talking about parental responsibility, as decreed by a court, to take care of and to contribute to the financial wellbeing of the child.

Mr. CAMPBELL. Absolutely. I couldn't agree more.

Let me speak of some specifics, though, that I have some concern with and see if perhaps you could entertain part of them as some changes to the administration bill.

We have in our legislation a garnishment provision when the arrearage reaches 2 months' worth of child support. I am concerned with the nonsalaried person, the person who owns property, the person who gets dividends, the person who has wealth and can avoid this withholding system and still not pay.

Now, I am wondering if perhaps your legislation could be changed. There are two ways to get at that type of person. We hope you would discuss this with us. One is to provide liens against real properties held by that person for payments. To me, if people have wealth in holdings and are not meeting their obligations, then liens against their property so that they cannot dispose of it until support obligations are met will, of course, be an insurance policy. I wonder if you would have any comment on that particular proposal.

Secretary HECKLER. Well, on both the subject of garnishment and liens from the data compiled at the Department, we have separated out the techniques that have, through experience, been most effective; mandatory wage withholding, the intercept of the State tax refund, these are very effective procedures.

We would mandate those procedures as well as the new quasi-judicial processes to speed up and accelerate the dispensing of justice by the courts. Although we do not mandate these other procedures, we are amenable to having States use whatever techniques they wish. We are also open to the discussion of that subject. We have already proposed three such requirements be placed on the States. We did not wish to overwhelm States, but felt that whatever techniques the State wishes to use beyond these should also be employed. Some States might wish to use that approach.

Mr. CAMPBELL. There is one other thing that I think we should do. Bear in mind I am speaking of the non-AFDC population. I am speaking of the people that have the means but aren't meeting their obligations. It is my strong feeling that we ought to be reporting arrearages to credit agencies and that it ought to show up on credit reports of people who are active in the business world and deal in finance because they, in many instances from the statistics we have, are not meeting their obligations. Those are the two things that I thought we ought to look at: the liens on holdings for arrearages and credit reports so that people will know that, well, they aren't going to get around this law just because they aren't salaried.

Secretary **Heckler**. Well, I think you made a good point. It is quite shocking to learn, as we do in looking at statistics and data, that there are some very wealthy fathers who are not contributing to their child support. It is very shocking. But at the same time, I think these approaches are additional techniques that the States could employ if they chose to and put into their own State law. What we do is allow the States to have that authority; we feel that is the right way to handle the issue.

Mr. **Campbell**. I should hope that we could encourage them strongly to use these techniques.

The issue that was brought up by the chairman about the offset of refunds from the Federal income tax is something that I think we should keep open. I am interested in looking at 1982. We collected $166 million from the Federal income tax refunds that was owed on AFDC. It is interesting to me to see that included in those from whom we took the refund was one Member of Congress, just to show you the income levels that we are talking about in pushing people into poverty from time to time.

Now, I would ask you again, and I heard your testimony, to consider the possibility of this offset from refunds for non-AFDC cases. We are using it in the AFDC situation already. Perhaps we are going to have to look at it because we have an interstate problem. I am not going to pursue this. I heard your testimony and there is no sense in going through it, but I do think we ought to look at what this issue is.

That brings me to this final thing: My bill uses an incentive approach to deal with the interstate problem that we have. Looking at your legislation, I believe, and I would ask you if you would agree that we might consider an additional incentive to the States for their interstate collections.

In other words, an additional encouragement to pursue interstate cases because it is easier for States to handle cases at home and the interstate cases have the lowest level of collection of any group that we have. I wonder if you would have any objection to that?

Secretary **Heckler**. Yes. I want to say that in our bill, we do stress interstate collections. As a Member of Congress, I always supported the so-called runaway pappy bill, which is a precursor to the most recent Federal law. The fact of the matter is I believe we can best deal with the interstate problem by creating an incentive for collection—not in the State in which the family resides—but in which the delinquent parent resides. And what I would hope to do by regulation is allow for a payment to each State so that the State that enforces the collection will be rewarded for its effort as well as the State in which the benefits are then received. And I think that equalizes it and also creates the incentive for each State to cooperate with the other.

Mr. **Campbell**. I think that is an excellent suggestion and I think it is something we should pursue.

Madam Secretary, I have one other point that I would like to cover: Garnishment or withholding. I understand, of course, that your bill permits paying the expense of an employer when a garnishment is made. This won't force a burden upon any small business or anyone for dealing with the garnishment if, in fact a garnishment order is given, will it?

Secretary **Heckler**. Yes, you are right on that issue. At the same time, I think that the best way to handle the garnishment and lien question is by giving the States the options to devise those extra techniques they feel are important and essential.

We feel that the basic procedures we would mandate would do the job.

Mr. **Campbell**. The fee could be levied by the State so the employer would not have any cost in case they didn't?

Secretary **Heckler**. Right.

Mr. **Campbell**. One closing comment. I know that you probably have the ability by regulation to do this. One area of concern to me is the medical support for children. A working parent has insurance in a group plan. If the job is lost, the children lose their medical insurance. How can we get the other parent to pick those children up? Two ways that I wonder if you would speak to. One, require the parents to buy a policy which they may not be able to, or if the custodial parents are working under a group plan to have an open period so that those children could be picked up under the custodial parents' group insurance and not fall through the cracks. Have you looked at this issue?

Secretary **Heckler**. Yes. We are at the present time working on a regulation to deal with those areas of the issue in which we have the authority to act. And we feel that through regulation we can make a difference in the AFDC cases.

Mr. **Campbell**. We have some concern. Group policies have only an open period only once a year, things of this nature. So there could be a major crack there that children could fall through. I should hope that we can work together to see if we can't put a plank across that opening in order to make sure that the parents who have insurance would at least have the opportunity to open their group policies to pick up their children rather than having to wait until their open period.

Maybe we can discuss this with you.

Secretary **Heckler**. We are looking at both AFDC and non-AFDC and this regulation will be forthcoming in the Department within the week.

Mr. **Campbell**. Madam Secretary, I again want to commend you and the administration on the fine job you have done on this legislation. It is most comprehensive. There are many things we look forward to working with you on and I feel that you are right on the point on this. You are going to have to be the one that is overall out front. The House and the Senate and other committees will try to get into this and we are looking to you and the administration to help us. We certainly want to work with you.

Secretary **Heckler**. Thank you very much.

Chairman **Ford**. Thank you, Mr. Campbell.

And before I recognize Mrs. Kennelly, I would like to say that Congresswoman Pat Schroeder is here and as a leader in the House in a few minutes she is scheduled to testify before the committee soon after Madam Secretary finishes her testimony and responds to the questions by the committee members. She does have a bill and the bill is before the committee now and the Chair would like to recognize you for 30 seconds, Ms. Schroeder for any comments you would like to make.

I know you will not be able to testify. I do have your statement here and it will be made a part of the record at the appropriate time today.

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mrs. SCHROEDER. Thank you, Mr. Chairman. I really want to thank you.

Madam Secretary, it is wonderful to see you here today and hear what is going on with child support. I know that the chairman and Congresswoman Kennelly have been working very hard on this and we have a bill in on it. I must say in all honesty the only disappointment I have is that none of us who have bills on our side of the aisle were invited yesterday to the White House. I must say also I am disappointed that we are not using tax refund set-asides by the Internal Revenue Service for non-AFDC cases in which there are arrearages. I think that the deadbeats at the rich end of the scale are really the worst. To say that you have to go on welfare and stigmatize children to be able to get past due support collected by IRS is most unfortunate. I really hope we can reconsider policy. It is in the bill that I support, H.R. 2374.

I also hope we can continue to work on this in a bipartisan manner. I know members of this committee have been very interested in doing it.

[The prepared statement follows:]

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

As cochair of the Congressional Caucus for Women's Issues and chair of the Economic Security Task Force of the Select Committee on Children, Youth, and Families I would like to salute the subcommittee for holding hearings on the important issue of child support enforcement.

A new Census Bureau study confirms, in numbers, what we in Congress have known for quite a few years by reading the heart-wrenching letters from women—and some men—unable to collect child-support payments.

The survey, covering 1981 and released last week, found that 8.4 million women had children under 21 whose fathers were absent. About 4 million of those women, by court decree, were supposed to receive child-support payments.

But only 47 percent received the full amount owed to them, and 25 percent received only part. One-fourth of those women received nothing.

And the money involved is not a great sum. The average annual payment was $2,106. One recent study in Colorado showed that spouses there pay more each month on their car payments than they do in child support.

Failure to pay child support is a national problem that affects every member of society. Another study showed that more than 80 percent of the people who receive Aid to Families with Dependent Children are receiving that aide because of nonpayment of child support.

Of course, it is the children who suffer most because of our twisted, confused, disorganized system that our country calls child-support enforcement.

It is time to get tough. The old solutions have not worked. Dragging the nonpaying spouse to court only crowds our courts and charges an already emotional issue with bitterness and anger. We need innovation and creativity and progressive solutions to the problem.

The amendments to the child support program proposed by Representative Kennelly are big steps to solving the child-support mess. Her bill would make it clear that the intent of state enforcement programs should be to help both AFDC and non-AFDC families collect their court-ordered support payments.

The bill would expand current law under which states can notify the Internal Revenue Service when absent parents owe past-due child support. The IRS has the power now to withhold the absent parent's income tax refund for tardy child support payments, but this applies only to parents of children receiving AFDC. This bill would permit the withholding of federal income tax refunds for all absentee parents.

All States have child support enforcement programs, but what is needed nationwide is consistency and use of methods that work. Congresswoman Kennelly's bill requires States to implement procedures that have proven successful in a number of States. Those techniques include:

Withholding of child support from wages;

A state child support clearinghouse which tracks child-support payments and triggers appropriate mechanisms when payments are late; and

State tax refund set-offs to collect past-due payments.

There is concern that child support enforcement is a punitive program to penalize fathers. But as policymakers, we much consider the rights and needs of children and make policy as if they matter—because they do. Parents should support their children and the Government should supplement those families who are unable to provide the basic necessities.

Chairman FORD. The Chair would like to reiterate that. I certainly would hope that would be the case in the future. As chairman of the subcommittee, I certainly did not get a call being invited to the White House yesterday with the other Members of the Congress who were invited along with Madam Secretary and the administration. As chairman of the committee, I certainly would like to have been invited. I hope we can continue our work in a bipartisan way, but it doesn't seem it will come from the White House.

Mr. CAMPBELL. Let me speak to that. As the ranking Republican member, Mr. Chairman, I was not at the White House either, but that did not mean that we didn't confer back and forth. Mrs. Kennelly, who has an excellent bill on this, and I have talked back and forth. I have talked with Mrs. Roukema about it and with the Secretary back and forth. I wasn't in on the particular meeting, but I certainly have been working on both sides of the aisle as have all of us in trying to develop this, and I don't feel real badly that I wasn't there yesterday.

I understand that the group that they had was because of some difference of opinion within a small group which they wanted to talk to them so I didn't feel real left out.

Chairman FORD. Mr. Campbell, by no means am I saying I am disappointed because I was not invited. I am so delighted to have the Secretary here with us today. I can assure you that not being invited to the White House yesterday that your presence here today will make up for that.

Secretary HECKLER. Well, Mr. Chairman, I appreciate that. I would like to say that the Congresswomen requested meetings at the White House on a variety of subjects; it was in pursuit of that agenda that the meeting was held. It happened to occur yesterday by chance, since it had been scheduled earlier.

Chairman FORD. I don't fit in that category.

Secretary HECKLER. They have legitimate interests in a number of subjects and had requested the meeting. Other subjects will be considered as well. It just so happened that your hearing was occurring today and I felt it was very important that we incorporate some of the ideas advanced during the meeting. I think that we gained the support of the President on some very important issues. But, please, do not feel this was a special invitational event. It was not. It was in pursuit of consideration of issues they wanted to raise.

Chairman **Ford**. Your testimony and your presence today clearly indicate that it was not and I again thank you for coming and at this time the Chair will recognize Mrs. Kennelly.

Mrs. **Kennelly**. Madam Secretary, I did not expect to be invited to the White House. We all understand these things and do disregard that, please.

Why don't we clarify something right now that I am a little confused on. There was an administration bill and then the piece that I introduced on the Women's Economic Equity Act was introduced in March and Mr. Campbell introduced a bill yesterday. Now, is it my understanding that you are supporting Mr. Campbell's bill or do you still have a bill?

Secretary **Heckler**. We have introduced H.R. 3546 and this is our bill.

Mr. **Campbell**. Ms. Kennelly, the administration has a complete bill. We had worked on it. There are some differences in ours. We did sponsor their bill because we felt that the Secretary had taken into consideration many of the earlier points that we had concerns with and incorporated them and that they had an excellent bill. However, there were a couple of small differences and we felt that the best thing to do was to get every item before the entire committee. That way we could start using the very excellent points in your bill, many of which I agree with, and Mr. Stark's and ours and the administration's bill when we draft our committee's legislation.

Mrs. **Kennelly**. To clarify, we have three bills. Eventually, we will have one bill, the three of us working together.

Secretary **Heckler**. When I became Secretary of Health and Human Services, a new bill was being drafted, based on earlier proposals.

Subsequently, we worked on that bill, and I wanted to see some changes in it. As a result of all of this, and of getting the President's approval, especially in terms of the enforcement for non-AFDC families, we have now perfected a bill that has been introduced with a number of sponsors. We want to continue the dialog.

We feel that our bill is excellent, there are always differences and changes that can improve even a very good bill. So we want to, on a bipartisan basis, continue this dialog and take into account and consult with the subcommittee on changes you might consider desirable—in designating and crafting a bill, and in the subsequent regulations I would issue.

So, please feel that you have an open invitation to work with us.

Mrs. **Kennelly**. Mr. Campbell and I have had that agreement.

I was glad to see that you dropped the original formula for States, because both of us realize it was a disincentive to go after anything but an AFDC case, and that is a plus.

There is a great concern by people who are representing States that some of the ideas of both of us, Mr. Campbell and I, are suggesting, will cost money.

Do you think that because of the interest and because of this nonpartisan approach, that you can assure us that you will continue to go to the President, so that we can have adequate funding to make this proposal work because otherwise we are all wasting our time.

Secretary **Heckler**. We feel that the funding directed to the program has not been effective.

Look at that chart, if you want to see how ineffective a program can be. There are some States that have been outstanding, and I acknowledge that. But, looking at the fact that the 10 best States can collect $2.47 and the 10 worst, 16 cents for each dollar spent in terms of the non-AFDC, the current funding program as it is on the books, is not effective.

Looking at this chart, six States are responsible for 88 percent of the savings, and use only 32 percent of the resources. The other 48 States and jurisdictions use 68 percent of the funding and collect only 12 percent of the total collected nationally. So, the current funding system is not effective. And that is what GAO said as well.

We propose to change the distribution formula from the 70/30 ratio, which is not working, to 60/40, covering the States costs by 60 percent, but creating a new incentive pool.

The money that we would have spent at the 70 percent rate for administrative costs would be put into the pool. We also create a new fee for the entering non-AFDC family of $25, and a second fee, the collection fee charged to the absent parent. Often, if the custodial parent gets the payments at all that were in arrears under the current system, the collection costs were taken out of what she received.

All of this creates funding for a new incentive pool of money which will be in the vicinity of $200 million.

First of all, this is not going to cost new money this year, and it will achieve savings through the new enforcement techniques; we think about $66 million. In the long run, we are just going to have a very cost-effective program, and I don't see the need for new funds at all.

We can make this program work and recapture money for the worthy families that are deserving of it.

Mrs. **Kennelly**. Those States that are so dismal——

Secretary **Heckler**. Look at 48.

Mrs. **Kennelly**. Non-AFDC and AFDC, have you discovered any information, personnel problems, lack of computers?

Secretary **Heckler**. First of all, you know that we have never had a focus on child support enforcement in this Congress before. I speak from my 16 years' experience. We did pass the bill in 1975 which created the existing program, but there was by no means the recognition of the seriousness of the problem.

We need a really serious focus on child support enforcement and certainly the President will give it a sense of priority. It must come from the President on down, and then from the Governors. I have already spoken to a number of Governors on the subject.

Why hasn't the existing program worked?

There was no sense of urgency. Some States were aware of the problem and created the priority. They were excellent.

For many, many of the others—48 were asleep at the wheel.

The Government was paying for everything. States got more money just by having the program without doing anything, without really collecting the money.

What is the difference in management techniques?

We want to see a really important improvement in management of the programs creating the enforcement techniques that our bill suggests; we think that, with the kind of priority we are going to stress, this will achieve the kind of savings, and the kind of really effective enforcement that the program deserves.

Mrs. KENNELLY. You are taking it from 70 to 60, so that is minus 10 percent.

I have a fear that if this is not handled with a beginning period that those States that are doing very well will welcome this, because they will get rewarded, but the bad States are not doing anything, anyway, and they see the Federal input go down 10 percent, and they say, why bother?

Secretary HECKLER. Our bill mandates changes in State legislation, so that every State wishing to take part in this program will have to look at its laws and bring them into compliance with the mandates they are establishing.

Our plan is based on mandating the most effective techniques that have worked, giving the States an option to do other things.

That creates an ensuing need for changing State law.

We also intend to bring the new priority on child support and the need for it—the national disgrace that the program actually is now in terms of effectiveness—to the attention of Governors and ask them to create a focus on it. I have already mentioned this, and with great success, I find the Governors very receptive.

Through the change in State law, through the change in management techniques, and then through the penalties that I am also asking for the program will be strengthened. While we provide the carrot, the incentive pool, we also ask you to authorize something of a stick to allow for the imposition of some penalties that are just and will also encourage enforcement.

I just think that we have to change the pace, the priority and that awareness. The legal changes will also make a difference.

Mrs. KENNELLY. We have had the penalties, and we are going to try to work that out. It is going to take more than us saying we want it and cheerleading, to make this thing work, and we have to look at financial support from the Federal side as well.

This is something we are going to try to build in with the formula.

I am concerned and like the clearinghouse. I come from the State of Connecticut, and already I have heard from our IV-D director, how can we afford a clearinghouse without more help from you?

Secretary HECKLER. We are going to be giving 90/10 support for the establishment of clearinghouses. The Federal Government will fund those proposals and innovative approaches at the 90/10 basis.

We are more than generous in terms of encouraging and helping a State develop a clearinghouse.

Mrs. KENNELLY. The interstate collection is another positive thing we must do.

I do hope that we can stay in touch, because I hope the funding you are talking about is adequate, but I have some question about it. Your presentation was great and your patience, also.

Chairman FORD. Mr. Moore.

Mr. **Moore**. As the second ranking Republican on this committee and the coauthor of one bill before the committee, and author of the amendment allowing the garnishment of the wages of people in the military service, I was not invited to the White House, either.

Chairman **Ford**. That is because you are from Louisiana.

Mr. **Moore**. That is probably right.

I don't think that for 1 minute that precludes the possibility of this being a bipartisan effort. You are seeing very close legislation coming out of both sides of the aisle.

The fact that the White House is endorsing it means we have a green light for everybody to go to work on it.

Madam Secretary, I wish to compliment you. This has always been a matter of concern to you. The fact that you are now bringing this legislation to address it in a far stronger fashion than ever before, is something we can owe in no small part to you, and I compliment you for that.

I see no reason whatsoever that should prevent this body from moving very quickly to pass very strong legislation.

In 1981, we addressed it in this subcommittee very briefly.

I think that a lot of our people across the country and our colleagues here in Congress will express some concern that we are really getting into a State government area.

It is the State government's responsibility to see to it people are paying State-ordered child support payments, but there is a Federal connection.

As you have testified, a large number of these single-parent families are on welfare because child support orders are not being paid.

To a great extent we are subsidizing the Federal taxpayers. This nonsupport disease seems to be spreading across the country, and we have every right to step in and begin to do something about it.

I will be working very hard to see that legislation passes.

Do you have any figure, or can you get a figure for us, of the amount of money it is costing the Federal Treasury because of this lack of child support payment across the country?

Secretary **Heckler**. We could probably get a figure for you, Congressman.

[The information follows:]

Unfortunately, Federal programs which serve the economically disadvantaged do not collect information of this kind about their participants. Therefore, the total amount of Federal money being spent as a consequence of failure to pay child support is not known.

However, there are several indications that the cost to the Federal Treasury is high. As I have already mentioned, past-due court-ordered child support amounts to $4 billion. Although we do not know how many participate in Federal programs, we know that 2.6 million women caring for children from an absent parent were living in poverty in 1981. And according to the Census Bureau, one-half of all families maintained by women receive some form of public assistance.

In addition, we know that 87 percent of those families eligible for the Aid to Families with Dependent Children Program are eligible because of the absence of a living parent and that only 10 percent of these parents are paying child support. Excluding the Unemployed Parent Program, the Federal Government spent $6.5 billion in benefits to AFDC families in 1982, of which approximately 5 percent was recovered through the Child Support Enforcement Program. Approximately one-third of Medicaid expenditures and nearly one-half of Food Stamp expenditures are for recipients of Aid to Families with Dependent Children. In addition, undetermined amounts are spent for other social services on behalf of children who are not receiving child support but who are not on welfare.

Secretary **Heckler**. In a figure I cited earlier, the amount of money that is in default in the last recorded year by the Census Bureau was $4 billion in 1981; $4 billion is owed the children of America because of nonsupport. There are also many, many cases in which there is no legal award at all, because the woman did not have the funds to go to a lawyer; although she was deserving of child support, she just did not have the means to use the legal process.

I can search our records, and try to get you a figure, but we are looking at this as a family and as a woman's and children's issue; the AFDC problem is extremely great, and it is costing the taxpayer.

There are many families pushed into welfare status due to lack of that enforcement, but there are other children who are doing without, and we feel their interests have to be advanced also. So our proposal encompasses both the non-AFDC as well as the welfare families.

We hope to create a very strong enforcement climate in which the decrees of the court will be honored. I can say, as a lawyer, very often when a woman receives a child support decree from a court, she receives an empty paper bag that cannot be enforced.

We are working on a bipartisan basis to help her, and we want a strong law.

Mr. **Moore**. I would ask your department to research that. I am led to believe that the figures are very convincing, billions of dollars.

Secretary **Heckler**. The billions of dollars are of no doubt. I am sure it is a shocking number.

We also have, of course, food stamps. Some of the people who are receiving partial payments qualify for some other Federal program because they are not being paid. I would hope the message gets out across America that this is an attempt for the Congress to step in and take over.

We are stepping in to see that in State and Federal law, Federal funds do not foster some parents having a free ride.

It is time to pay the fiddler.

Thank you, Madam Secretary.

Chairman **Ford**. Mr. Pease.

Mr. **Pease**. Thank you, Mr. Chairman.

Madam Secretary, welcome back to Congress, and I would like to join with my colleagues in expressing my thanks to you for your work in this area.

It obviously is an area where Democrats and Republicans can agree that the children of America are being cheated, and, second, the Federal Government is being cheated, so we do have a role to fulfill.

Could you be a little more specific about your ideas or plans to make use of the health insurance policies of absent parents to provide coverage for children when the child's present guardian becomes unemployed and does not have health insurance?

Secretary **Heckler**. I will have to provide this for the record. There is a regulation working its way through the Department to my desk, and I know that it is going to be coming to me very, very shortly. As of now, though I simply will have to provide that for the record.

It will be issued in the next week.

[The information follows:]

A proposed regulation of the Office of Child Support Enforcement (OCSE), published in the Federal Register on August 4, 1983 (copy attached), would require State and local Child Support Enforcement (title IV-D) agencies to perform the following activities during the processing of IV-D cases:

Petition to include medical support in new or modified court or administrative orders for child support if employer-based medical insurance coverage is available to the absent parent at reasonable cost or if current coverage could be extended to include the child(ren) in question.

Ensure that any medical support coverage required by a support order is obtained by the absent parent.

Provide these services to AFDC recipients and also to non-AFDC recipients who request them.

Provide health insurance coverage information to the Medicaid agency for purposes of collecting third party payments to offset medicaid expenditures.

§ 261.17 Boundary Waters Canoe Area, Superior National Forest.

The following are prohibited in the Boundary Waters Canoe Area:

* * * * *

(c) Using wheels, rollers, or other mechanical devices for the overland transportation of any watercraft, except by special use authorization, or as authorized by Federal law or regulation.

18. In 36 CFR 261.18 is revised to read as follows:

§ 261.18 Pacific Crest National Scenic Trail.

It is prohibited to use a motorized vehicle on the Pacific Crest National Scenic Trail without a special use authorization.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

June 27, 1983.

[FR Doc. 83-21180 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-11-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 61 and 62

[Docket No. FEMA-FIA]

National Flood Insurance Program; Assistance to Private Sector Property Insurers

Correction

In FR Doc. 83-20627, beginning on page 34482 in the issue of Friday, July 29, 1983, make the following correction.

On page 34482, first column, the comment date in the second line of the "DATES" paragraph should have read "September 27, 1983".

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302, 304 and 306

Child Support Enforcement Program; Medical Support Enforcement

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Withdrawal of proposed rulemaking; notice of proposed rulemaking.

SUMMARY: The Notice of Proposed Rulemaking (NPRM) published July 28, 1983 (48 FR 34302) is withdrawn because it was published in error and the following NPRM is issued in its place. OCSE is proposing to amend the Child Support Enforcement program regulations governing medical support enforcement activities. Currently these activities are pursued through optional cooperative agreements between the State IV-D agency and the State Medicaid agency. This proposal would require all State IV-D agencies, as part of the IV-D State plan, to perform certain limited medical support activities. First, the IV-D agency would be required to attempt to obtain basic medical support information during the normal processing of child support cases and provide this information to the State Medicaid agency. Second, the IV-D agency would be required to petition to include medical support in new or modified support orders in situations in which coverage is available to the absent parent at reasonable cost and to inform the State Medicaid agency of any new or modified support orders which include a medical support obligation. These activities would result in increased use of available third party resources in the form of private medical insurance and in medical cost savings to State and Federal governments. Federal funding would be available to IV-D agencies for these required medical support activities.

DATE: Consideration will be given to written comments and suggestions received by October 3, 1983.

ADDRESS: Address comments to: Director, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m. in the Department's office at the above address.

FOR FURTHER INFORMATION CONTACT: Carol Jordan, Policy Branch, OCSE, (301) 443-5350.

SUPPLEMENTARY INFORMATION:

Background

The Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142) added section 1912 to title XIX of the Social Security Act (the Act). This section of the Act permits the State Medicaid agency to establish a medical support enforcement program. The Conference Committee Report (H. Rep. 95-673, September 22, 1977) states that the Medicaid agency may use the IV-D agency to assist in the enforcement of medical support rights due from or through an absent parent, since it was not intended that the Medicaid agency establish a separate system for the enforcement of medical support obligations.

On February 11, 1980, OCSE and the Health Care Financing Administration (HCFA) published joint regulations to implement section 1912 of the Act through optional cooperative agreements between the State Medicaid agency and the State IV-D agency. (See 45 CFR Part 306 for OCSE regulations and 42 CFR 433.151 through 433.154 for HCFA regulations.) Under these agreements, the Medicaid agency reimburses the IV-D agency for medical support enforcement activities conducted pursuant to the agreement. However, most States have not elected to enter into such agreements because of other child support enforcement program priorities and an unfavorable differential in the two programs' Federal funding rates. Federal funding in the Medicaid program is available at a rate lower than the 70 percent rate for child support activities under title IV-D of the Act. States are, therefore, reluctant to take on additional responsibilities which will increase the burden on IV-D agency staff and result in a smaller percentage of Federal reimbursement for services provided. State IV-D agencies have also indicated that they have insufficient staff and resources to allow them to pursue medical support enforcement. For these reasons, medical support enforcement efforts through cooperative agreements have been minimal.

We believe that many parents have private medical insurance available through their employers or unions which could be used, at reasonable cost to the parent, to pay for their dependents' medical expenses, resulting in reduced costs of supporting a child and significant cost savings to State and Federal governments under the Medicaid program. In fact, a National Health Care Expenditures survey conducted by the National Center for Health Services Research of the Public Health Service, indicated that 73 percent of low-wage employees can obtain employer provided insurance at reasonable or no cost. In addition, the Department is advocating cost-saving policies in Federal programs and these regulations would enhance State enforcement of third party liability for medical expenses.

Statutory Authority

These proposed regulations are published under the authority of sections 1102 and 454(13) of the Act. Section 1102 authorizes the Secretary of HHS to publish regulations not inconsistent with the Act which may be necessary to efficiently administer his functions under the Act. Under the title IV-D State plan requirement contained in section 454(13), the Secretary may prescribe, and the State must comply with, requirements and standards necessary to establish an effective title IV–D program. Furthermore, because section 462(b) of the Act defines "child support" to include payments to provide for health care, we believe that requiring State IV–D agencies to attempt to obtain information on the availability of medical insurance and to petition to include medical insurance coverage in new or modified support orders as part of their normal child support enforcement activities is consistent with the purpose and functions of the title IV–D program.

Regulatory Provisions

These proposed regulations do not alter or replace current regulations governing optional cooperative agreements between IV–D and Medicaid agencies under which IV–D agencies may provide medical support enforcement services. Restrictions contained in current regulations governing optional cooperative agreements do not apply to the required activities contained in these proposed regulations. The proposed regulations would require under the title IV–D State plan that IV–D agencies gather specified medical support information if it is available during the regular processing of IV–D cases; submit the information to the Medicaid agency for use in its medical support enforcement and follow-up activities; petition to include medical support in new or modified support orders in situations in which coverage is available to the absent parent at reasonable cost; inform the Medicaid agency when new or modified support orders include a medical support obligation; and provide the Medicaid agency with health insurance policy information either at the time the order is entered or when the absent parent secures medical coverage in compliance with the order. These regulations would not require the IV–D agency to perform other medical support enforcement or follow-up activities such as actual collection of payments for medical services from liable third parties which remain the responsibility of the Medicaid agency.

We have tried to minimize the burden that these regulations would place on IV–D agencies. These additions to the present scope of IV–D activities are in keeping with the Department's initiative to pursue third party resources as a means of reducing medical costs to State and Federal governments. Because the IV–D agency already performs the functions of locating absent parents and ensuring that the support obligations of absent parents are met, the use of IV–D agencies to gather medical support information during the normal processing of IV–D cases and to petition to include medical support in new or modified support orders will avoid the duplication of effort, the unnecessary expense, and the administrative complexity that would result if the Medicaid agency had to establish new and separate systems for these activities.

The proposed regulations amend 45 CFR 302.80 by changing the section title, redesignating the current contents of the section as paragraph (a), and adding a new paragraph (b). The section title, Medical support enforcement, would be changed to Medical support, because the new paragraph (b) does not require enforcement. In paragraph (a), the cross-reference to 45 CFR Part 306 would be changed to refer to Subpart A of Part 306 for reasons explained below. The proposed § 302.80(b) would specify that the IV–D activities contained in 45 CFR Part 306, Subpart B, are requirements under the title IV–D State plan.

These proposed regulations amend 45 CFR 304.20, Availability and rate of Federal financial participation, by adding a new paragraph (b)(11). Paragraph (b)(11) would make Federal funding available under the IV–D program for IV–D medical support activities required in Part 306, Subpart B, of these proposed regulations.

These proposed regulations also amend 45 CFR 304.23, Expenditures for which Federal financial participation is not available, by revising the cross-references in paragraph (g). This change is required because of the redesignation of the current contents of 45 CFR Part 306 as Part 306, Subpart A.

The redesignated 45 CFR Part 306, Subpart A, entitled "Optional Cooperative Agreements," does not change current regulations at 45 CFR Part 306. Part 306, Subpart B, entitled "Required IV–D Activities," contains new §§ 306.50 and 306.51.

The new § 306.50 is entitled Securing medical support information. Section 306.50(a) lists the information a IV–D agency is required to attempt to obtain on behalf of the Medicaid agency to assist with medical support enforcement activities. Under this paragraph, the IV–D agency would collect information on each IV–D case for which an assignment is in effect under title IV–A of the Act (45 CFR 232.11), if the information can be obtained during the regular processing of IV–D cases and if the IV–A agency does not provide the information to the Medicaid agency. The information would include the name, address and social security number of the absent parent, the name and address of the absent parent's place of employment; the child's name and social security number; the AFDC case number, the Medicaid number or custodial parent's social security number; and whether the absent parent has a health insurance policy and, if so, the policy name and number and names of persons covered.

Section 306.50(b) would require the IV–D agency to obtain the information specified in paragraph (a) upon request of an individual who applies for IV–D services under 45 CFR 302.33.

Section 306.50(c) of the proposed regulations requires the IV–D agency to submit the medical support information obtained under §§ 306.50 (a) and (b) to the Medicaid agency. The IV–D agency has discretion regarding the transfer of medical support information to the Medicaid agency, i.e., the information may be transmitted manually or by automated system, if the State has one. However, the IV–D agency would be required to transmit the information by the most efficient and cost-effective means available.

We believe that requiring IV–D agencies to supply Medicaid agencies with medical support information which is readily available to the IV–D agencies is the simplest, least expensive way of securing the information necessary for medical support enforcement activities. Also, since IV–D agencies need not secure information unless it is readily available to them during the normal processing of IV–D cases, we believe the impact of these proposed requirements on IV–D agencies will be minimal.

We do not intend that IV–D agencies should duplicate IV–A agencies' actions in providing AFDC case information to Medicaid agencies, but do not have sufficient information to assess the depth of this potential problem. We welcome comments from State IV–D agencies in this area.

The new § 306.51 is entitled "Securing medical support obligations." Paragraph (a)(1) would require the IV–D agency, with respect to AFDC cases, to petition to include medical support in new court or administrative orders for child support and in existing orders which are being modified or adjusted. The IV–D agency is not required to attempt to modify an existing court or administrative order for the sole purpose of including medical support. The purpose of this requirement is to avoid Medicaid expenditures and protect children under the medical insurance policies of their absent parents at low cost to the IV–D agency.

If the absent parent assumes responsibility, in part or in whole, for the medical expenses of his or her dependents, the costs of the Medicaid program will be reduced. This requirement would be limited to situations in which coverage is available to the absent parent at reasonable cost either by securing employer-related medical insurance coverage or extending current coverage to include the child or children in question.

Section 306.51(a)(2) would require the IV–D agency to inform the Medicaid agency of any new or modified orders for support in AFDC cases that include medical support and to provide the health insurance policy name and number and names of persons covered if this information is available at the time the order is issued.

Section 306.51(a)(3) would require IV–D agencies to ensure that the absent parent secure employment-related health insurance coverage for a dependent child as required by a support order, if the required coverage has not been secured at the time the order is issued. The IV–D agency would then provide the Medicaid agency with the health insurance policy name and number and the names of the persons covered.

Section 306.51(b) would require the IV–D agency to provide the services under paragraph (a) upon request by an individual who applies for these services under 45 CFR 302.33.

Medical support enforcement and follow-up activities other than those specified in §§ 306.50 and 306.51 are not required of the IV–D agency under these proposed regulations, but are the responsibility of the State Medicaid agency.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the State plan amendment that is required by this regulation will be submitted for approval to the Office of Management and Budget (OMB). It is not effective until OMB approval has been obtained and the public has been notified to that effect through publication of a final regulation.

Sections 306.50 and 306.51 of this proposed rule contain information collection requirements. As required by section 3504(h) of Pub. L. 96–511, we have submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

Regulatory Impact Analysis

Section 1(b) of Executive Order 12291 states that a major rule is one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Executive Order requires that for major rules, we prepare a regulatory impact analysis which describes the potential benefits and costs of the rule, together with the potential benefits and costs of alternative approaches.

We estimate that in FY 1984 these regulations will save approximately $80 million in Federal Medicaid expenditures and approximately $70 million in State Medicaid expenditures. Child Support Enforcement program costs are not expected to exceed $16 million, since IV–D agencies will obtain only information that is readily available during the regular processing of IV–D cases, will petition to include medical support only in new or modified child support orders, will ensure that absent parents secure insurance coverage or add dependents to already existing coverage if required to do so in a support order, and will submit information to Medicaid agencies by the most effective means possible. We have determined that this is a major rule. The discussion below, together with the preamble as a whole, constitute the regulatory impact analysis.

The rule will have little or no *net* economic effect, because it will not change substantially the total amount that will be spent on medical care for dependent children of absent parents. The effect here is not the level of medical coverage but rather who will finance it—parents, third-party payors, and ultimately, employers and employees who pay premiums, versus the Medicaid program and taxpayers. In any event, total expenditures will be about the same, and this regulation, therefore, results in a redistribution of resources with little or no net impact.

Alternatives to this proposed rule have been examined and rejected. The Department considered continuing to rely on the current system, in which medical support enforcement activities are pursued only through optional cooperative agreements between the State IV–D agency and the State Medicaid agency. However, as stated earlier in the preamble, most States have not elected to enter into such agreements, and, therefore, medical support enforcement efforts have been minimal. Another rejected option was to have the Medicaid agencies establish new and separate systems for these medical support activities. However, this would result in unnecessary expense and duplication of effort, since the IV–D agencies are already locating absent parents and collecting certain information anyway. The alternative which has been selected in these proposed regulations will provide great benefits to Federal and State governments at minimal burden to State IV–D agencies.

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. This proposed rule will not have a significant economic impact on a substantial number of small entities. Its principal impact is on State IV–D agencies (who will be required to expend minimal additional effort), and third party payors. Although this rule can be expected to result in additional third party payments of over $100 million annually, this amount represents a small fraction of one percent of costs (and premiums for) health insurance, and will not have a significant economic impact. Therefore, a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Parts 302 and 304

Child welfare, Grant programs/social programs.

45 CFR Part 306

Child welfare, Grant programs/social programs; Medicaid.

For the reasons set out in the preamble, Chapter III of Title 45 of the Code of Federal Regulations is proposed to be amended as follows:

PART 302—[AMENDED]

1. 45 CFR 302.80 is revised to read as follows:

§ 302.80 Medical support.

(a) The State plan may provide that the IV–D agency will secure and enforce medical support obligations under a cooperative agreement between the IV-D agency and the State Medicaid agency. Cooperative agreements must comply with the requirements contained in Subpart A of Part 306 of this chapter.

(b) The State plan must provide that the IV-D agency shall secure medical support information and medical support obligations in accordance with the requirements contained in Subpart B of Part 306 of this chapter.

PART 304—[AMENDED]

2. Section 304.20 is amended by adding a new paragraph (b)(11) to read as follows:

§304.20 Availability and rate of Federal financial participation.

* * * * *

(b) * * *

(11) Required medical support activities as specified in Part 306, Subpart B, of this chapter.

3. Section 304.23 is amended by revising paragraph (g) to read as follows:

§ 304.23 Expenditures for which Federal financial participation is not available.

* * * * *

(g) Medical support enforcement activities performed under cooperative agreements in accordance with Part 306, Subpart A, of this chapter.

4. 45 CFR Part 306 is amended by amending the table of contents, revising § 306.0, placing the title Subpart A—Optional Cooperative Agreements after § 306.1, designating §§ 306.2 through 306.40 as Subpart A, adding the title Subpart B—Required IV-D Activities after § 306.40, and adding new §§ 306.50 and 306.51 as follows:

PART 306—MEDICAL SUPPORT ENFORCEMENT

Sec.
306.0 Scope of this part.
306.1 Definitions.

Subpart A—Optional Cooperative Agreements

306.2 Cooperative agreements.
* * * * *
306.40 Maintenance of effort.

Subpart B—Required IV-D Activities

306.50 Securing medical support information.
306.51 Securing medical support obligations.

§ 306.0 Scope of this part.

Subpart A of this part defines the requirements for an optional cooperative agreement between the IV-D agency and the Medicaid agency for the purpose of enforcing medical support obligations under section 1912 of the Act. Subpart B of this part prescribes the required medical support activities to be performed by the IV-D agency.

* * * * *

Subpart A—Optional Cooperative Agreements

* * * * *

Supart B—Required IV-D Activities

§ 306.50 Securing medical support information.

(a) If the IV-A agency does not provide the information specified in this paragraph to the Medicaid agency and if the information is available or can be obtained during the regular processing of a IV-D case for which an assignment is in effect under title IV-A of the Act (45 CFR 232.11), the IV-D agency shall obtain the following information on the case:

(1) AFDC case number, Medicaid number or the individual's social security number;

(2) Name of absent parent;

(3) Social security number of absent parent;

(4) Name and social security number of child(ren);

(5) Home address of absent parent;

(6) Name and address of absent parent's place of employment;

(7) Whether the absent parent has a health insurance policy and, if so, the policy name and number of names of persons covered.

(b) The IV-D agency shall obtain the information specified in paragraph (a) of this section upon request by an individual who applies for IV-D services under § 302.33 of this part if the information is available or can be obtained during the regular processing of the IV-D case.

(c) The IV-D agency shall provide the information obtained under paragraphs (a) and (b) of this section to the Medicaid agency by the most efficient and cost-effective means available, using manual or existing automated systems.

§ 306.51 Securing medical support obligations.

(a) With respect to cases for which there is an assignment in effect under § 232.11 of this part, the IV-D agency shall:

(1) Petition to include medical support in new or modified court or administrative orders for child support if new, employer-based medical insurance coverage is available to the absent parent at reasonable cost or if current coverage could be extended to include the child(ren) in question; and

(2) Inform the Medicaid agency when a new or modified court or administrative order for child support includes medical support and provide the health insurance policy name and number and names of persons covered if this information is available at the time the order is entered.

(3) If the health insurance policy information referred to in paragraph (a)(2) is not available at the time the order is entered, ensure that the medical coverage required by the support order is obtained by the absent parent and provide the Medicaid agency with the health insurance policy name and number and names of the persons covered.

(b) The IV-D agency shall provide the services specified in paragraph (a) of this section upon request by an individual who applies for IV-D services under § 302.33 of this part.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302) and sec. 454(3) of the Social Security Act (42 U.S.C. 654(13))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: July 29, 1983.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: July 29, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-21234 Filed 8-3-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173 and 175

[Docket No. HM-184A; Notice No. 83-4]

Implementation of the ICAO Technical Instructions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe

Mr. **Pease**. Well, in this committee just recently, we reported out a bill on health care for the unemployed. One of the things we found was that if there are two spouses working in a family, and one becomes unemployed, and the insurance, health insurance, is gone, it is difficult for the other spouse to pick it up because of enrollment periods.

I would hope your regulation would deal with that—requiring open enrollment periods, and if regulations cannot do it, that you would seek to have us include in this bill some statutory language which would make that provision.

[The information follows:]

No. The proposed regulation refers to establishing and enforcing a medical support obligation if employer-based medical insurance coverage is available to the absent parent. The statutory authority for this regulation does not extend to requiring the health insurance industry to provide open enrollment periods for the unemployed.

Secretary **Heckler**. I certainly will respond. As you might recall, the President did say that he supports creating a permanent open enrollment season for the unemployed, so that in those families—the very large number of families in America in which there are two working members—that the employed member's insurance could be opened for conversion to a family policy in the case of the unemployment of the other. This is something that he has supported.

If this regulation does not go that far, or is not capable of going that far legally, then I will report it to the subcommittee and support your bill.

Mr. **Pease**. I notice you will repeal the 12 percent incentives to the States and reduce the amount of administrative costs paid by the Federal Government from 70 percent to 60 percent. I am interesting in knowing how this all turns out in the wash.

States have been a little unhappy over the last couple of years about various administration proposals with block grants when the bottom line wound up that the States were getting less money than the Federal Government had been spending for a program and yet were expected to fulfill the same responsibilities.

How do these changes net out for the States in terms of whether they get more or less money from the Federal Government than they are getting now?

Secretary **Heckler**. Well, first of all, Congressman, we are going to have to—I think that the first point to be made is that the current system of funding is not producing enhanced collection in sufficient numbers to warrant its continuation.

Some States are very effective producers, and do enforce the child support laws. Other States are very, very ineffective. As you can see from the chart, six States achieved 88 percent of all collections. This is so shocking. I was not aware of this until I went to HHS, it shows that what the States have already received has not really done the job nor achieved a mission.

We are proposing a decrease in Federal funding to States for administration costs from 70 percent to 60 percent, the 40 percent in the future to be paid by the States.

The extra 10 percent will go into a new incentive pool. In addition to that, funding for the former incentive bonus of 12 percent for AFDC, which was a bonus only for AFDC, so a State had no incentive to collect the non-AFDC family's support payments, would again be put into the incentive pool, and we have also added the application fee of $25 or more, and the collection fee.

This creates an aggregate of approximately $200 million, which is the new incentive pool. Then, by regulation, we intend to create standards, criteria whereby we can judge the performance in AFDC and non-AFDC performance separately, and reward the States proportionally on that.

This is something on which I issue an invitation to the subcommittee to consult with me on the creation of those criteria, so that we can devise fair ways of looking at State performance.

In the end, how does it wash? I think that when you consider we are also providing the 90/10 money for the establishment of clearinghouses or other new techniques, management systems, et cetera, we will be able to achieve really cost savings. Certainly we will continue the funding at the current level, because that is an entitlement. We will also, through aggressive collection, have the opportunity to reduce the taxpayers' burden and create a very effective program for the non-AFDC families, too.

I don't think the States are going to be penalized. The high performers are going to be rewarded.

We will also have, we hope, a series of penalties. The penalty in the law now is too rigid. It allows no discretion.

Mr. PEASE. Yes.

Can you tell us roughly how much money is involved currently in the 12-percent bonus?

Secretary HECKLER. $116 million.

Mr. PEASE. And what would be the difference between the 70 percent and the 10 percent, that amount of money that goes into the new enforcement?

Secretary HECKLER. $57 million, I am told by the experts.

Mr. PEASE. $57 million.

Secretary HECKLER. The balance will be the fees. That makes up the $200 million

Mr. PEASE. I see. The net outlays, then, that show up in the Federal budget, are they likely to be higher or lower than the current net outlays?

Secretary HECKLER. Approximately the same, because we are using the same amount of money.

Mr. PEASE. Well, if that is the case, obviously some States will be winners, and some will be losers, because, as you point out, the new system will be designed to reward the good producers and not the others.

Is there any danger at all, or any possibility, that some of the States that are the poor producers, that are not likely to get much money anyhow, and have their administrative cost payment cut from 70 percent to 60 percent, will decide to drop out of the program altogether?

Secretary HECKLER. I can't imagine any Governor in America deciding that this is not a priority.

I intend to alert the Governors to the emphasis we are going to place on child support enforcement, both through the organization of Governors, and through my individual contacts with them. I really believe that the States will still receive their 60 percent of administrative costs, and there will be new emphasis on the establishment of this. If you draft a bill that allows for the imposition of some kind of a graduated penalty, there is a possibility that a State could lose under a penalty that might be imposed by HHS, which would deny them some of their other AFDC money; so there is going to be strong encouragement to the States to create a very effective enforcement program.

Mr. PEASE. Do you have any idea at all what percentage of the $200 million incentive program will be going to these six or eight high-performing States that are already the leaders?

Secretary HECKLER. No. As I said, this would be done by regulation, and I would consult with the committee in terms of devising clear criteria, because we are anxious to see broad comprehensive enforcement of the program across the country. I intend to use all the powers of persuasion to bring the issues to the Governors of some of the less-effective States.

We are beginning today with emphasis on what is happening in the States; if we all go back and every Member of Congress who votes for the final bill takes it upon himself or herself to make a commitment to work for enforcement, together, I am sure, we can accomplish the goal.

Mr. PEASE. It may require all of your considerable powers of persuasion. Obviously, a number of Governors in a lot of States have not made the decision to this point to devote much time or attention or resources to this collection problem, and yet under this program we will be saying to those States which have not performed in the past, you no longer get the 12 percent of your AFDC collections; you have to fight it out with these six or eight States that are high-performancers, and you are going to reduce the Federal payment for your administration down to 60 percent.

Persuasion is wonderful, and I think you have great powers of persuasion.

I wonder if you consider the stick at all—any penalty in terms of reducing the Federal match, for example, for AFDC to States which do not make a substantial effort?

Secretary HECKLER. Last year, with the passage of TEFRA, there was a 5-percent decrease, from 75 percent to 70 percent. We saw no discernible difference.

With the kind of money the Federal Government has invested and the lack of performance from a large number of States, there is an incredibly broad spectrum of difference in performance.

The funds invested have not produced the goal. We hope to create a sliding scale of penalties, giving me the opportunity to create the scale and allowing that discretion.

Under the current law, the Secretary of HHS does have one penalty, and that is withholding 5 percent of AFDC money from a State. Now, that is incredible; it is a very, very strong penalty, so strong that no Secretary has used it.

I feel if I have a graduated set of penalties that I can use with discretion, therein lies the stick. There is another factor here, and that is, as the States become aware of the fact that if they rigidly enforce the AFDC family's payments, the State will benefit, too—because they, of course, make a contribution to AFDC.

At all levels, State and Federal Government, we share a strong interest in enforcement, not only on the basis of social policy, but also in terms of financial interest.

Mr. **Pease**. Thank you, Madam Secretary.

Chairman **Ford**. Mrs. Kennelly.

Mrs. **Kennelly**. You know and I know that even if the women got full payment, they would not be that well off.

There are other parts of the Equity Act that we have to work on together, but this is a start.

Secretary **Heckler**. This gives us an opportunity to work together and to really make a difference for the women and children of America, and it is a good beginning.

Chairman **Ford**. That concludes the questions from the subcommittee members.

I would like to make one request that you, as Secretary of HHS, and the President, would go back and review the IRS withholding from all absentee parents. We think that is a crucial and important area to be considered, because I would hate for us to give the appearance that we are trying to protect the rich.

If we would look at it again and see if there is any way that we might get your support and that of the President, it would be very kind of you to reconsider that.

We request from HHS to provide the subcommittee with tables comparing the distribution of Federal child support enforcement funds among States: One, under the current matching level, incentive payment; and, two, under the reduced matching rate, new incentive structures proposed by the administration.

This comparison should be based on States' collections in the most recent years that you would have the information available and report that to the subcommittee. We would appreciate it.

[The information follows:]

We are currently studying various formula options for the new incentive structure. When this analysis has been completed, we will provide the comparative tables on a State basis for the distribution of Federal child support enforcement funds under current law and our performance funding proposal.

Mr. **Campbell**. Mr. Chairman.

Madam Secretary, in looking at the offset on the Federal income tax refund to all people, I understand your concern. I share it as to where our authority comes with the States; under AFDC, we have a Federal program.

Would you consider that in three aspects: the AFDC, where we obviously have Federal authority and intervention; the States, where people live in-State, but consider interstate as another possibility. Even if we cannot go to the in-State cases because of the States rights issue, which I am concerned about, certainly there is an interstate right from a parent across a State line to deal with this with Federal collection. I hope you would explore this possibility. Perhaps you could give us some other figures on interstate payments.

What percentage are we talking about that are interstate?

[The information follows:]

We believe that there are many problems associated with implementation of a Federal tax offset program for non-AFDC cases. Regardless of residency of the absent parent, support arrearages for non-AFDC families are difficult to determine. Accurate arrearage amounts are a necessity for a non-AFDC tax offset process. Hearings may be required to ascertain arrearage amounts. Here, as elsewhere, interstate cases are more complicated due to the possiblity that the absent parent may have successfully sought modification of the support order and reduction of the arrearage. In such cases, the State filing on behalf of the custodial parent would have great difficulty in determining the arrearage.

The States reported for the fourth quarter of fiscal year 1982 an average non-AFDC caseload of approximately 370,000. For the same period, they reported having sent 26,841 non-AFDC requests for assistance to other States, or about 7 percent of the reported total non-AFDC caseload.

Secretary HECKLER. We will search our records and examine the issues. We have looked at the most effective enforcement techniques, and that is what we have in the bill, to mandate withholding and the intercept at the State level, because that is going to be very, very effective. It has been in our experience.

In terms of the Federal issue, there are greater difficulties, because on AFDC our department keeps very detailed records; we have all the records of the exact costs and what is owed. We know this with precision. In terms of the non-AFDC families, you have individuals whose records are not before the State, who, say, could be in the middle of another change, the modification of a decree. They are susceptible to so many different pieces of information that we don't have the same kind of a track record and tracking ability with the non-AFDC that we have with the AFDC cases.

For these reasons we have felt the most effective approach is going to be at the State level where the tracking system can take into account what is happening locally.

Chairman FORD. Your presence, your testimony today, and your response to the questions is a clear indication that we have an issue that is before this subcommittee and the Congress that we must move on, and it is a bipartisan effort to move this legislation through the Congress, and, once again, as chairman of the subcommittee, and speaking for all members, we are very appreciative of your testimony and your presence today before the committee.

Secretary HECKLER. Thank you very much.

Chairman FORD. The committee will call on the Honorable Clarence Long, from the State of Maryland, as the next witness before the committee.

The committee will recognize you at this time, Mr. Long.

STATEMENT OF HON. CLARENCE D. LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. LONG. Thank you, Mr. Chairman, for allowing me to testify in support of my bill, H.R. 216, to help nonwelfare families collect past due child-support payments from deadbeat parents.

I am delighted that provisions of my bill were incorporated into title V of the Economic Equity Act by Congresswoman Barbara Kennelly.

Appearing later today before this subcommittee is my constituent, Elaine Fromm, president of the Organization for the Enforcement of Child Support, who inspired me to introduce this bill, and who will speak to the need for this and other legislation to improve the enforcement of child support.

Mr. Chairman, failure to pay child support is a serious problem that affects all of us. When absent parents do not support their children, in many cases, taxpayers have to do this instead—through welfare and other related programs. In fact, 80 percent of welfare recipients are on welfare because their ex-spouses are not paying child support.

Women come to me all the time, and they are unable to support their kids because the fathers don't carry out their obligations.

Many payers—mostly fathers—are people of means who could afford to provide support—but do not—forcing their own children and former spouses to either resort to welfare or live in near poverty on the mother's earnings.

An estimated 2 million fathers—more than half the men legally obligated to pay child support—give less than required or nothing at all, cheating children out of $4 billion a year in support, according to the latest census figures.

Although Federal and State laws have been enacted to assist in the collection of child support, huge gaps and inequities still exist in these laws and their enforcement. In January, I reintroduced my bill to fill one of these gaps. My bill, H.R. 216, would extend the IRS tax refund offset program to nonwelfare families.

In the 1981 Budget Reconciliation Act, Congress gave the IRS the authority to grab income tax refunds of those who skipped out on child support responsibilities—but only for welfare—AFDC—families.

This effort, known as the tax refund offset program, has been a great success, collecting $166 million in child-support payments from nearly 263,000 absent parents in the 1981 tax year alone. Although all the figures for the 1982 tax year are not in yet, it is estimated that up to $210 million could be collected.

How does the program work?

Every January, the Federal Office of Child Support Enforcement provides the IRS with a magnetic tape containing the names and social security numbers of the deadbeat dads certified by the various States as being delinquent by 3 months or more in child-support payments. This tape is automatically checked against IRS records. If the delinquent parent has a refund coming to him, the IRS file is flagged, and the refund is intercepted.

The money recovered, averaging $637 a tax return, is used to reduce Federal and State welfare costs; any remainder is sent to the family. The costs of making these collections, according to the IRS, is only $11 per tax offset.

My bill, which now has 47 cosponsors, including Bill Frenzel, of the subcommittee, would simply extend this successful program to nonwelfare families.

The advantages?

It would stop parents from getting away with abandoning their responsibilities to their children and shifting the cost to the taxpayer;

It would be cost effective, since the program is already in place and any added expense would be paid for by fees charged to the delinquent dad or the nonwelfare family—not the taxpayer;

It could help families remain self-supporting, saving millions of Federal and State welfare dollars.

Above all, it would help those most in need—the children who suffer the most from nonpayment of support. For the sake of these children, I hope this subcommittee will be able to approve my bill to help them receive the full support which they are due.

Thank you, Mr. Chairman, and members of the committee, for your consideration. I look forward to introducing Elaine Fromm to you later day.

This is something that has bothered us all for a long time, and there is only one way in which to address this problem.

When a man deliberately wants to avoid his responsibility, he can be incredibly ingenious at doing it, and I have been horrified at the inability of the local law enforcement to go after the fathers.

After the courts have made the awards, they don't collect the amounts. They claim they can't find the fathers. Frequently, the fathers are in the locality. My office finds them for the local law enforcement agencies.

Mr. Chairman, and members of the committee, thank you for your consideration again.

Chairman **Ford**. Thank you for your testimony, Mr. Long.

The staff has raised one question that has been brought to their attention with regard to when that deadbeat dad remarries and files a joint return, and part of that refund from the IRS is jointly with his new wife. The other spouse has some problems with portions of her funds going to child support.

I think the questions have been raised to IRS, but there is no mechanism at this time in place for IRS to deal with that particular problem. Hopefully it will, and I think it is an area that we have to talk with IRS about to develop policy changes and try to protect those new spouses who had earnings and deduct some of their refund for the purpose of the child support.

Mrs. Kennelly.

Mrs. **Kennelly**. Thank you, Congressman, and I know that you were one of the originals and here we sit with the hearing, and the impetus came many years ago from you.

Have you got any ideas how the States can verify the non-AFDC arrearage when the person gets behind?

Mr. **Long**. I am not sure I understand.

Mrs. **Kennelly**. We have reference for AFDC.

Secretary Heckler told us they can watch it.

How does a State get the adequate information about what the non-AFDC father owes?

Mr. **Long**. I would hope that this would be a matter of the records of the local child-support enforcement agencies, and that they can make that available.

Mrs. **Kennelly**. You just feel that if we had the cooperation of the IRS, we could do it.

Mr. **Long**. I think without question.

In fact, a large part of my job as Congressman is to get the IRS to do things they ought to be doing.

Mrs. **Kennelly**. That is where we need you.

Thank you.

Chairman **Ford**. Mr. Moore.

Mr. **Moore**. No questions, Mr. Chairman.

Thank you for being here, Mr. Long.

Chairman **Ford**. Thank you for coming before the committee, and we thank you for your testimony.

The committee will recognize Mr. Biaggi.

Mr. Biaggi. Thank you.

Chairman Ford. Welcome before the subcommittee, and the Chair recognizes you at this time for your testimony.

STATEMENT OF HON. MARIO BIAGGI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Biaggi. Let me commend you for holding this hearing, because it is an issue that has certainly been plaguing many people in this country, especially those affecting it.

It has never been really given that priority that it morally deserves, and the action by the Secretary and the President, with the introduction of this legislation, is salutary.

I do not believe that the legislation offered is the alpha and omega; however, clearly it focuses on the problem today; but I think we should ask ourselves one question, and what is it we are trying to seek? What are we seeking?

That is, to compel a scoundrel, an immoral, scandalous scoundrel to meet his obligations.

The AFDC is one problem, and that has been addressed in some measure. Unfortunately, the bill introduced by the administration seems to focus on that area, and there has been some modicum measure of success in recovery, but the area that the real scoundrels, the people that don't seem on top of society because of their fiscal position is the non-AFDC individuals.

Here you have individuals who Congressman Long indicated engage in ingenious devices to avoid their responsibility.

It is essential the IRS get involved. Absent that, the whole process would be meaningless.

There should be a device or regulations, or whatever instrument is required to create it, in order to meet this specific problem.

I know cases where men have married, have children, left, were subject to court decree, paid nothing, went on, married others, had children, had others, and subject to court decree and did not pay a single cent and continue to live in a very lavish fashion.

Those individuals thwart the moral sense of society, but are laughing at the face of government.

This hearing today is so essential and I am delighted that it is here. I am not so sure what legislative product we will have ultimately, but, clearly, Mr. Chairman, and members of the committee, whatever we do, let's make certain it has teeth and not involve ourselves simply with the interstate problem, because that is minimal. We must devise a way to deal with the intrastate problem and find a way to pierce the corporate veil that permits an individual to live on a very lavish fashion on one side of town, where his children and his wife live on another side of town impoverished.

That is what we are looking at, and that is the individual we seek.

The answer to that should be found in this committee and in this Congress.

I am delighted that the administration has finally, and that Government rather can focus on the administration; I think the administration is to be commended, and so is the chairman and this subcommittee, and the Secretary, for finally focusing in on this problem.

I have recommended, Mr. Chairman; I will submit my testimony for the record.

Chairman FORD. Without objection.

Mr. BIAGGI. Before there was any sign of interest in this issue, I introduced legislation to create a national commission to look into the entire problem in the same fashion we devised one for so many other intricate and complex problems, and I don't know that this legislation will be as comprehensive as it should be.

We may be required to settle for less. I am not so sure, but in any event, the notion of a commission to continue to devise ways or look into the complex areas of this problem is, I believe, one that has considerable merit.

It had more when I introduced it than it does now, because clearly we are underway, but I exhort you, Mr. Chairman, and the members, if we are to deal with the problem, let's deal with it as comprehensively as possible, and think in terms of that scoundrel, and I say scoundrel, because we are in the Halls of Congress, and I would rather be more earthy, and I would feel more released in my passionate feelings about this issue.

We all know the differences men and women have, but adults have a basic obligation to children, and even to their wives who have born those children and are compelled to take care of those children and be virtually imprisoned and prevents them from going out and having an individual life.

Whatever means necessary, that is what we should do, and I know that Government has the ability and Members of Congress have the creative genius to develop legislation, as well as the administration, that would meet this very imperative moral need.

I have asked the GAO to audit the non-AFDC children, the Senate Budget Committee has asked for an audit for the AFDC children, and I think that will be ready in December.

I don't know if we will wait that long for this legislation.

I can only tell you that I would like to commend Mrs. Kennelly, and all the women Members of Congress, for their concerted effort and all of the others who have taken an interest in this issue, and I would not be stymied simply because we look and say we don't have jurisdiction. Find jurisdiction.

If you look for it hard enough, you will find it. Get behind that corporate veil, and get at those immoral individuals who continue to live the good life while the children are being denied and subjected to the worst form of life.

[The prepared statement follows:]

STATEMENT OF HON. MARIO BIAGGI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

I appreciate the opportunity to join with my colleagues and testify on an issue who solution must be considered a top priority concern of this Congress. The issue is nonpayment of child support. In a very real sense, it represents a festering sore on the national conscience.

According to a new Census Bureau study—more than half of American men legally obligated to pay child support are in default of all or part of their payment. Astonishingly, 28 percent of the 4 million women eligible for child support payments are receiving nothing.

Yet the nonpayment of child support claims more than one set of victims. The same Census Bureau study charges than non or under payment of support affects some 13 million children—both from AFDC and non-AFDC families—and these children are cheated out of almost $4 billion a year in support. Let us put that last figure in perspective. This child support can be vital to the economic well-being of the child, especially when one considers that one year after divorce—mothers suffer a devastating 73-percent reduction in income.

Perhaps the most galling aspect of this issue is that some of the most flagrant abusers are from the ranks of the non-AFDC parent. It is well known that failure to pay child support is not related to income. While mothers suffer a sharp decline in income after divorce—fathers experience a 42-percent improvement. One recent study found that men who never paid child support at all had higher incomes than those who made partial payments. The idea that a person making a six-figure income can act with impunity by escaping their child support obligation incite this Congress into corrective action.

The subcommittee has convened these hearings to examine some of the 11 bills which have thus far been proposed aimed at improving our woeful record of child support enforcement. The overriding issue is—we must find an effective method of ensuring that child support laws are fully enforced so that those who would violate their provisions would not escape punishment as too many do now.

I consider this to be a non-partisan problem demanding a bipartisan solution. It is in that spirit that I ask this subcommittee to give early and favorable consideration to my bill, H.R. 1014. It would establish a bipartisan national commission to both study and make recommendations on improving Federal and State efforts to enforce child support obligations and recoup delinquent child support payments.

The Commission would be established for only 1 year and would be charged with the specific responsibility of examining the federal role in collections. It would include but not be limited to: An examination of the existing Federal-State formula and a feasibility study to establish on a nationwide basis a formula for assessing the amount of a support order. A study of the possibility of establishing a federally based wage deduction or garnishment system.

The Commission would also examine the State role in terms of its role in collection. This would include but not be limited to: Administrative and judicial problems in processing and coordinating activities related to collections.

All of the aggregate recommendations of the Commission would be translated to Congress within one year and would form the foundation for substantive legislation.

Various approaches to solving this problem are embodied in other bills before this subcommittee—some of this I have cosponsored. However, I feel the approach in my bill may prove the most expeditious method toward resolving this problem. We have seen fit to submit other national problems and crises to bipartisan commissions such as the one which produced the social security reform bill passed by Congress earlier this year. The issues to be resolved if we are to improve our child support collections are complex and multifaceted. They need to be fully examined by a commission which is politicaly insulated and would be committed to finding the best possible solution.

The concensus of opinion would unmistakably lead us to the conclusion that present child support enforcement activities leave much to be desired. Some of the problems can be remedied with more adequate funding levels for the Federal and State offices administering the programs. Others may be resolved by better direction and formula changes to remove the disincentives against pursuing delinquent non-AFDC fathers.

Clearly we must do something. We must translate a growing public outrage into sensible policy which can do what we all want—get child support payments to those who are to receive them. To proceed toward a policy solution without a complete examination of the interrelated State and Federal role could produce a problem worse than the one we have already. Therefore, I urge this subcommittee to pass H.R. 1014 as soon as possible so the work of a bipartisan expert Commission can achieve the quality solution we all want.

STATEMENT OF HON. MARIO BIAGGI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

At this time I wish to provide some preliminary reactions to the bill H.R. 3546 which embodies the Adminstration's latest initiatives in the area of Child Support Enforcement.

First, let me commend the Administration for their initative and let me make the further assumption that this is the likely legislative vehicle that will move through the House. Therefore, I wish to evaluate the bill and propose some improvements.

In a general sense, I am deeply concerned about the direction this bill takes in terms of abrogating Congressional responsibility to HHS regulations. Regulations are not supposed to be substitutes for legislation, instead they are supposed to implement legislative intent as reflected in bills. Throughout this bill there is a tendency to defer far too much to regulations.

Let me be more specific. The Secretary of HHS would be under this legislation empowered to devise a formula to reward states for exemplary performance; develop criterion for measuring performance and thus judging the "best" record of state collections; the particulars of three critical enforcement techniques viz., wage withholding, quasi-judicial or administrative procedures and withholding for past-due child support from state income tax refunds would be written as regulations. These are now powers that Congress has—to turn them over to HHS is to seriously hamper the oversight responsibilities of Congress.

The reduction of funding to the OCSE at a time when it is being asked to do more than it has done since its inception is unrealistic. This is not the time to reduce the FFP from 70 to 60 percent nor is it the time to change the program from an entitlement program as a whole to in part a discretionary program subject to ceiling limits and possible further cuts.

Two further points of the proposal just don't make sense in light of the latest Census Bureau figures: (1) to change an audit to triennially from annually will not allow Congress to change direction should this be warranted; (2) to charge an application fee to non-AFDC to trigger enforcement of child support orders appears to be discriminating against non-AFDC families—are non-AFDC families not entitled to the same services as AFDC families free of charge?

I propose that all three collection techniques be written into the language of the bill and moreover, be automatic. Specifically, wage withholding should be automatically triggered by court orders and written as such into the bill. Similarly, withholding for past due child support for state income tax should be automatic and be written as language of the bill itself.

In summary, I believe that the OCSE should not be subject to the dilatory tactics of regulations issued by the Secretary of HHS and that the FFP should not be reduced. I am opposed to the intent and to the language of this Administration's proposal. Lip service is paid to non-AFDC families. With the power of oversight transferred to the Secretary, Congress will not have the power to insure enforcement of Child Support. This is a responsibility—indeed—a duty that Congress cannot shrink. We, in Congress are accountable to the 8.4 million women in need of child support and we must continue to pursue effective legislation to respond to their needs.

Chairman FORD. Thank you very much.

Mr. Moore.

Mr. MOORE. Your comments were totally accurate to the first administration bill. That bill was scuttled last night and a new one was introduced today which addresses a more balanced approach and is not solely aimed at AFDC.

Because this has caught a number of witnesses in the lurch, I ask that you hold the record open for any witnesses that would like to supplement any additional statements.

Chairman FORD. Without objection, we will leave the record open for a period of 5 days for members to submit any written testimony that they might like to submit.

Mrs. Kennelly.

Mrs. KENNELLY. In the bill that I introduced last March, I immediately saw that I had not done something, and I wanted to say I followed your support of grandparents, and I received this from a small article that I had in a smalltown newspaper; I received letters who would say mothers have given up, and this bill will address a child living with other individuals, especially grandpartents, where people have gone through their life and end up with a child to support and often are living on very limited income. You have encouraged me to do that here.

Chairman FORD. Thank you very much for your testimony before the subcommittee today, and thank you for your appearance.

Mr. BIAGGI. Thank you for the opportunity to be here, and I am thankful to Mr. Moore that there has been a more balanced approach, but really what concerns me as a practitioner of the legislative process is that we develop a piece of legislation that falls short of totality. This is one opportunity which we will have to do the job completely and correctly, and I hope we do not settle for half a loaf.

Thank you very much.

Chairman FORD. The committee will call on Hon. Dan Coats from Indiana.

We are delighted to have you before the subcommittee today.

STATEMENT OF HON. DAN COATS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. COATS. I appreciate the opportunity to testify before the committee. I am here representing the Republican members of the Economic Security Task Force of the new Select Committee on Children, Youth, and Families.

I will summarize my prepared remarks, and if you would make them part of the record, I would appreciate it.

The Select Committee on Children, Youth, and Families published its first report in May entitled "U.S. Children and Their Families, Current Conditions, and Recent Trends."

A number of startling things were indicated in that report, but perhaps one of the most alarming statistics was the one showing a significant trend toward single-parent households.

We see a picture of single mothers struggling to enter and make their way in a marketplace in which many lack the necessary training and experience to successfully compete. The burden for those mothers in providing economic and emotional security for the family is nearly an overwhelming task but even more complicated when they don't receive adequate child support from the fathers.

The Census Bureau has documented a pitiful record for child support payment. Fathers don't pay their support. The Republican members of the Economic Security Task Force feel that it is our responsibility to do what we can to alleviate this shameful child support record. We recognize the ability of this committee to address the problem, and we wish to offer our assistance in any way which can be helpful.

A number of effective State programs have been implemented. We can learn from those. A number of States do not have effective programs and these should be strengthened. The Federal Government also has a role in this area by providing uniformity and enforcement mechanisms in the laws.

I think ultimately we are faced with a task of reawakening our population to the importance of accepting and fulfilling the responsibility of caring for children that are brought into this world. That responsibility does not end upon separation or divorce but continues to an even greater degree.

Fathers have both a legal and a moral obligation to provide child support, and we should do what we can to insure that that is done.

I was pleased to learn of the administration's proposal that was completed just last night. I'm sure it incorporates a number of the things that we are talking about. As cosponsor of Congressman Campbell's bill, I think we are finally moving forward in addressing this very critical problem.

Again, I appreciate the opportunity to testify before you and look forward to working with you in any way possible.

[The prepared statement follows:]

STATEMENT OF HON. DAN COATS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. Chairman and members of the subcommittee: I appreciate the opportunity to appear before the Committee and represent the Republican members of the Economic Security Task Force of the Select Committee on Children, Youth, and Families. We would like to convey our concerns about child support enforcement laws. The Select Committee on Children, Youth, and Families published its first report in May entitled "U.S. Children and Their Families: Current Conditions and Recent Trends." I believe I speak for all our committee members in stating that one of the most discouraging aspects of this report was the alarming trend toward single-parent households. Today, nearly one-fourth of all children are living with only one parent and one out of two children spend some part of their childhood in a one-parent family. Recent studies show that 90 percent of single-parent families are headed by women and that these single-parent mothers earn only about 65 percent of the income a single-parent father makes.

Bruce Chapman, Director of the Bureau of the Census, testified before our comittee that" . . . poverty is increasingly a function of family composition rather than economic condition alone." The family composition Mr. Chapman is alluding to is that of the single-parent households headed by women. These households represent about one-third of all families below the poverty level. One-half of the families maintained by women receive some form of public assistance.

Divorce, separation and out-of-wedlock births all produce heavy emotional and economic stress for both children and parents. Between 1970 and 1982, the number of children living only with their mother increased 68 percent. This increase is largely a result of a 122-percent increase in divorce over the same period, and an alarming 431 percent increase in never married mothers. What we see is a picture of single mothers struggling to enter and make their way in a marketplace in which many lack the necessary training and experience to successfully compete. The burden of providing economic and emotional security for the family is for many a nearly overwhelming task, greatly complicated by the fact that many mothers do not receive adequate child support from absent fathers.

The Census Bureau has documented a pitiful record for child support payment. In 1981, more than half of the 8.4 million women with children under age 21 and an absent father, did not have an agreement for payment of the father's financial obligation. Of the four million parents with legal orders for support, less than half (47 percent) were receiving the full amount. Twenty-eight percent received nothing, 25 percent received some partial payment. One third of all AFDC families with an absent parent should be receiving child support, but only one in seven of these families does.

The many studies on the subject all point to the same conclusion: fathers don't pay their child support. Between a quarter and a third of fathers never make a single court-ordered payment. Not one study has found a state or county in which more than half the fathers fully comply with court orders. Many fathers pay irregularly and are often in arrears. Lois Drake of the Indiana Child Support Division recently told me that "the entitlement psychology has become so pervasive that attitudes and expectations of millions of adults have been altered to the point where they are actually incensed by the idea that they are expected to make any effort or sacrifice to provide for the children they bring into the world. Mrs. Drake also indicated that without adequate orders and enforcement, the children in these families have little chance of breaking out of the welfare cycle. We teach them that society does not expect parents to provide for their children and that no one really cares about the child's well-being.

In order to address this serious problem, the Federal Government in 1975 established the Office of Child Support Enforcement. This program was a good beginning but, more needs to be done to help women who are seeking child support for their children. Under the IV-D program, States were able to collect on only ten percent of the AFDC caseload of 5.5 million and only 30.6 percent of the non-AFDC caseload of 1.5 million. Although the program collected $1.8 billion ($1 billion for non-AFDC families and $800 million for AFDC families) in 1982, not one State or county had even 50-percent compliance with court orders. Obviously, our current efforts are not sufficient.

As members of the Select Committee, we believe it is our responsibility to do what we can to alleviate this shameful child support record. We recognize the ability of the Ways and Means Committee to address this problem and we offer our assistance to you in any way that could be helpful. In the coming months, you will be examining effective state programs and efficient enforcement mechanisms. Indiana has already benefited from two federally mandated programs—the Federal income tax offset and withholding of unemployment benefits if child support payments are delinquent for AFDC cases. My State anticipates collection of more than $4.6 million during 1983 from the IRS tax refund intercept and collections in 1984 could almost equal the total from all other collection activity. Under the withholding of child support payments from unemployment compensation benefits, Indiana is currently collecting $4,000 per week or one percent of total IV-D collections. Additionally, Indiana utilizes a State tax refund offset in order to collect delinquent child support obligations and hopes to net $150,000 during 1983 from this intercept. Other States are above the national average in terms of the effectiveness of collections and administrative costs. We can, and should, learn much from those who are successfully dealing with this problem.

While Federal and State enforcement efforts are already in place, there is still a wide discrepancy in the effectiveness of child support collections. For instance, interstate enforcement is spotty in some places, nonexistent in others. A stronger, more uniform interstate system must be developed. Many State laws need reform and should adopt mandatory wage assignment, an offset of State income tax refunds, and better administrative procedures for AFDC and non-AFDC families. Courts are crowded and backed up to the point of inefficiency, where child support claims, especially those for non-AFDC families, are often given low priority. Then too, there are no guidelines to even determine that the child's support needs and allowances are fair.

We are faced with the task of reawakening a large segment of our population to the responsibilities of parenthood. State legislatures have to be convinced that their child support and paternity laws require strengthening. State judicial bodies must be convinced that making adequate provisions for and stressing enforcement of child support is essential. The legal system has to be convinced that paternity and support cases are as important as other civil or criminal cases. The public has to be convinced that absent parents should be contributing to the cost of raising their children.

Parents have a moral and legal responsibility to care, to the best of their ability, for their children. We should all recognize this fundamental obligation to support and care for the children we have brought into this world. Mr. Chairman, I would again like to offer the services of the Select Committee on Children, Youth, and Families in order to improve the performance of our State and Federal child support efforts. We look forward to working with you on this most important matter.

Chairman Ford. Thank you, Mr. Coats. Thank you for appearing before the committee as a Republican member of the Economic Security Task Force on the Select Committee on Children, Youth, and Families.

Thank you very much.

Mr. Campbell.

Mr. Campbell. I, too, would like to thank you for joining us in this effort from the beginning, in the sponsorship of the legislation, and your work on the task force.

The administration bill that was introduced late yesterday is similar in many points to the legislation that we introduced.

There are some minor differences. They have some better points on a couple of items than we have, and we think that they have some points that we don't.

The other bills, Mrs. Roukema's bill, which is also an excellent bill, has some very good points.

We really have an effort by several individuals on a bipartisan basis to address this issue in a comprehensive manner, and, of course, your input lends itself toward a solution to this problem. I think that this subcommittee, with the support of the administration, the chairman of this subcommittee, and both sides of the aisle, will come out with comprehensive legislation that will deal with this problem. I thank you for your participation.

Chairman FORD. Mr. Moore.

Mr. MOORE. No questions, Mr. Chairman.

Chairman FORD. Mrs. Kennelly.

Mrs. KENNELLY. No questions.

Chairman FORD. Thank you again.

The Chair will recognize Congresswoman Roukema at this time.

Mrs. Pat Schroeder was here, and she left her testimony in writing to be a part of the record.

The Chair and the committee would like to recognize the gentlewoman from New Jersey at this time.

STATEMENT OF HON. MARGE ROUKEMA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mrs. ROUKEMA. I will submit for the record a more comprehensive statement.

Chairman FORD. It will be made a part of the record.

Mrs. ROUKEMA. Today, I would like to highlight some of the distinctions in my bill, H.R. 3354, and commend you for holding this hearing.

This is a national problem that we are facing.

We are all aware of the statistics which demonstrate the problem. We have heard them enumerated today. The most recent Census Bureau figures graphically illustrate the growing proportions of the problem, and an interesting study done by Dr. Lenore J. Weitzman, in California, found another interesting aspect of the problem that is appropriate for us to consider, and that is in California, the income level of women dropped after divorce by 73 percent, while the men's income rose by 42 percent.

It is obvious that we now need effective measures for those children who are represented by the numbers that we have been talking about, and they are being deprived and, let us not forget it, they are being deprived materially and emotionally as a result of parental disregard.

Existing programs, as the Secretary has graphically illustrated, have proven to be of only minimal success. We know the dimensions of the problem.

Let me put it in some human terms. Each of our colleagues could look in his or her own district and find hundreds of cases which illustrate the need for stricter enforcement. In my own district, I currently have a case where a mother has five support orders from the court saying that her husband owes the support as well as the delinquency.

The husband has moved out-of-State and continually fails to make his court hearings.

That situation is obvious.

I could point to other examples and, in fact, I will submit here for the record an article that recently appeared in one of our papers that clearly points to an example of another growing problem, and that is the problem of the middle and upper income family which has fallen into arrears.

The article clearly illustrates, in fact, interestingly enough, both father and mother said if the Roukema bill had been in place, we would not have had these court snags.

The examples are typical of the revolving door of justice through which these women pass.

The judge says "pay up or else," but there is no "or else."

The courts currently have no strong enforcement measures to insure that the delinquent fathers or spouse, pay what they legally, and I stress legally, owe.

I have introduced my bill, H.R. 3354, with the bipartisan support of 41 Members of Congress, in response to these children.

I would like to stress some of the distinctions in my bill.

First, my bill would require mandatory wage withholding from the moment of the court or administrative order. It is not a new idea, and many of the bills before us today include similar proposals. However, I want to stress that an important difference in this bill, and that is that withholding would not wait for delinquency to occur.

Why should, I ask you, the custodial parent wait for 2 months, as in some of these bills, before receiving the support?

The 2 months actually end up being many months before the system begins to work.

The bills in the meantime do not stop coming.

The children still need to eat and be clothed and credit ratings of the family are seriously in disrepair.

This waiting time adds to the emotional stress between the parties involved, as the article that I have submitted will indicate.

This is a significant difference in my bill and one that I hope that the committee will consider very carefully and it may, Mr. Chairman, relate directly to your concerns about IRS. I would also like to emphasize that my bill would not in any way affect existing State divorce or alimony laws or the judge's determination on the child support decree. There is no, I repeat, no infringement here on State jurisdictions under my law. What it will do is require through mandatory withholding automatic payment of legally determined child support. It will not prejudice any further judgment made under State laws on future appeals of the spouses, indications of job changes or whatever changes there are, legitimate future appeals that could change that court order.

This bill only triggers in after the judgment is made and does not prejudice any further judgment or change.

Second, my bill does not discriminate between child support collected for those receiving AFDC and those not currently receiving such assistance. As has been discussed, our current laws do not do that. My bill would mandate equal collection on behalf of all those who are due child support. There is no discrimination between AFDC and non-AFDC and at this point, I woud like to refer back to some of the conversation, Mr. Chairman, regarding the White

House meeting yesterday on this particular subject and here I must say mea culpa because I forced the issue at the meeting.

I was most concerned that the administration would not report a bill that would be successful in this regard and I am happy to say that the President listened and as you have heard today, was responsive and I think that is a breakthrough and a good step for all of us as we seek to reach a bipartisan solution here.

Now, I realize that the committee is going to examine these various proposals and make many alterations and I just want to plead with you in the strongest possible way that the nondiscrimination is featured. I want to emphasize the need for stricter enforcement and in order for that to work I believe that we need to make the adjustment as easy for the States as possible. Of all the pending bills, I believe mine is the simplest and the most direct and while it may seem revolutionary in concept to some, that is the immediate mandatory withholding it is efficient and effective and a simple way for the States to enforce. It uses existing mechanisms, the IV–D programs and sets up no new bureaucracy.

We need to change the existing laws so that withholding is immediate and automatic. We must also give the States realistic guidelines to follow but with strict penalties, otherwise they will not comply. I realize that in the bill I have suggested withholding totally the title AFDC moneys and that is stringent, perhaps too stringent. But the point is that unless the States have a significant stake in this and a loss involved of significant proportions beyond what is presently in the law, we are not going to have much greater compliance.

Any bill that comes from this committee must have incentives and penalties that are credible and will be a significant enforcement and compliance weapon. I agree that the administration's proposal to institute a graduated penalty for noncompliance has substantial merit. I question whether or not the auditing criteria are adequate and I know that your committee has this concern, too, because this is essential. Those criteria are essential quite apart from the way the graduated penalties are employed, but I would suggest to you that the proposal the administration has made is not severe enough and I would ask that you look at that because if after all of this we don't have a system where the States are really going to be in compliance, where the Federal Government uses its authority to enforce that compliance both through bonus incentives as well as penalties, then we haven't come very far which is what I think Congressman Biaggi has previously stated.

And I would suggest that in doing that, I think there may be a third level of review beyond those that are mentioned in the administrative law that could withdraw substantial funds if the States are in noncompliance and there I think it is the will of the Congress and the will of the Secretary that will make that work.

We, as legislators, must remedy this shameful situation. No mother, no child, no family and I emphasize family—I am glad Congresswoman Kennelly pointed out the component of this which is the grandparents because grandparents have written me in droves about the costly expense that they are incurring in attempting to keep their grandchildren off welfare. These families should not be subjected to endless and debasing legal battles before they can receive the rightful support which the law has decreed.

In closing, Mr. Chairman, I would like to commend you. I would like to commend Mrs. Kennelly for her leadership and the ranking Republican members on the committee, Mr. Conable, Mr. Campbell, Mr. Moore for their help. And certainly, although I have taken exception to some of the proposals made by the administration, I must commend Mrs. Heckler, the Secretary, for her efforts. She has really shepherded a breakthrough as far as moving the legislation forward in a timely manner and bipartisan manner and one that I think leaves us with the hope that a bill will come out this year.

[The prepared statement follows:]

STATEMENT ON HON. MARGE ROUKEMA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, I thank you for the opportunity to discuss with you the growing national problem of child support enforcement. We are all aware of the statistics which demonstrate the problem and they are disheartening. The recent Census Bureau figures covering 1981 found that 8.4 million women had custody of minor children from an absent father. Approximately 4 million of these women were awarded child support, but only 47 percent (1.9 million) received the full amount due them. Of those remaining women, 25 percent received only partial support and the remaining 28 percent received nothing. Mrs. Lenore Weitzman in her study conducted in California found that the income level of the Women dropped after divorce by 73 percent and the man's income rose by 42 percent. We now need effective measures for those children who are represented by those numbers and are being deprived materially and emotionally as a result of parental disregard. Existing programs have proven to be of minimal success in actually collecting child support and with non-compliance at epidemic levels litterally millions of families in all economic situations are unable to provide for the basic needs of their children and grandchildren.

Each member of this committee could look at his or her own district and find hundreds of cases which illustrate the critical need for stricter enforcement. In my own district I am currently involved in a case where a mother has five support orders from the court saying her husband owes the support as well as all the arrearage. The husband has moved out of State, and continually fails to make his court hearings. I could point to many other examples, in fact I have here an article which describes another case which is telling and I would ask that it be inserted in the record at this point. Clearly this is not right. These examples are typical of the revolving door of justice through which these women pass—the judge says "pay up or else" but there is no "or else". The court currently have no strong enforcement measures to insure that these deliquent fathers pay what they legally, and I stress legally owe.

I have introduced H.R. 3354, the National Child Support Enforcement Act with the bipartisan support of 41 of my colleagues in response to these children. First my bill would require mandatory wage withholding from the moment of a court or administrative order. This is not a new idea, and many of these bills which are before us today include similar provisions. However, I want to stress an important difference which is that the withholding would not wait for a delinquency to occur. Why should the custodial parent wait two months or more before any support is received? Further, by the time the system works months pass. The bills do not stop coming in, the children still need to eat and be clothed. This waiting time adds to the emotional tension between the parties involved. This is a significant difference in the bills and one I hope the committee will consider carefully.

I should also like to emphasize that my bill would not in any way affect existing state divorce or alimony laws or the judge's determination on the child support decree. There is no infringement here on State jurisdiction. What it will do is require, through mandatory withholding automatic payment of legally determined child support. It does not prejudice any further judgment made on appeal of the spouse.

Second, my bill does not discriminate between child support collected for those receiving AFDC and those not currently receiving such assistance. Our current laws and incentive payments for performance have been geared toward the AFDC collections. My bill would mandate equal collection on behalf of all those due child support. If we are to reduce the welfare roles, we need to aid those who do not wish to have to go on to them because of the noncompliance of a child support decree. I am very pleased to note that every one of the four child support bills pending before this committee now has this feature. I talked with the President about this yesterday prior to introduction of the administration bill, and I am proud of the fact that he agreed and the legislation reflects this.

Now, I realize that the committee is going to examine these various proposals and make many alterations. But I just want to plead with committee in the strongest possible way that these feature of nondiscrimination between AFDC and non-AFDC recipients must be kept. It is in every proposal and it should be retained.

In order for stricter enforcement to work, I believe we need to make the adjustment as easy for the States as possible. Of all the pending bills, mine is the simplest and direct. While it may seem to some revolutionary in concept, it is in fact efficient and effective. It uses existing mechanisms and sets up no new bureaucracy. We need to change the existing laws so that withholding is immediate and automatic. We must also give the States realistic guidelines to follow, but with strict penalities should they not comply. I realize that the losing of title XIX monies in my bill is very stringent, and I would be willing to discuss further with the committee on that point at the appropriate time, but I do feel that states should know they will lose a significant amount of money if they do not comply. Any bill that comes from this committee must have incentives and penalties that are credible and will be a significant enforcement and compliance weapon. I agree that the administration's proposal to institute a graduated penalty for noncompliance may have substantial merit.

It would impose a 2 percent for noncompliance after the first review, 3 percent for the second and 5 percent for the third. If we are going to have such a system, why not go further and mandate that should compliance not occur after the third review that the State would deny all funds until changes are made so that they conform with the law?

We as legislators must remedy this shameful system. No mother, no child, no family should have to bear the burden of endless and debasing legal battles before they can receive the rightful support which due process has decreed.

In closing, Mr. Chairman, let me commend you and the ranking minority member (Mr. Conable) in particular and every member of this committee for the commitment you have shown to this issue. I also want to thank Secretary Heckler for her efforts within the administration. This is a crucial issue and I look forward to continue working with all of you as we move along.

Chairman Ford. Thank you. The Chair would like to thank the gentlelady for her testimony and I think it goes without saying that it is a strong bipartisan effort in this Congress to move some legislation. I would like to thank you for your efforts and recognize Mr. Campbell.

Mr. Campbell. Thank you, Mr. Chairman.

I, too, want to commend the gentlelady for her untiring efforts in this field. She was on the cutting edge along with Mrs. Kennelly in bringing this matter to a head. The meeting at the White House, I think, proved something that a lot of us have known for a long time. That is that when you can get directly to the President, his instincts are pretty good. The gentlelady got to the President and didn't get bogged down in the bureaucracy where people were saying you can't do this and you can't do that. She went to the top and got a decision. I commend her for that and I commend the President because I think once he was made aware firsthand of the problem that we were facing, he moved immediately.

Let me pursue this 1 minute. I understand that withholding upfront is in the gentlelady's bill. Some have raised some questions of States rights. I understand the simplicity and the effectiveness of it. Some of us have incorporated a couple of other things that say that a State must do it within the 2 months, but may do it immediately. We leave that option to the State because some States already do it immediately but under our bill they all have to do it if there is an arrearage that accumulates up to 2 months of support.

I know the gentlelady has a stronger one. Ours lets the State make the decision. I wonder what your thoughts are.

Mrs. ROUKEMA. We examined that very carefully, Mr. Campbell, and I was very sensitive to that particular problem but I determined that what we are talking about here are real flesh and blood issues and if we are not violating the divorce laws of the State in consideration of the interstate problem. By the way, perhaps I ommitted or neglected to mention, whatever bill comes out has to be very strong in terms of requiring reciprocity between the States that has to be firm and clear in the language of the bill. But the point is that as long as the State divorce laws are not violated, as long as this is triggered only after the judgment is duly made under those existing laws, I see no violation and I think the national nature and the interstate nature of the problem overwhelmingly argues in favor of this kind of direct approach, particularly if you recognize 2 months does not sound like much but in the first place for families that are living so close to the edge it is a long time. But even if we had the confidence it would be 2 months, I don't really have that confidence because by the time the system works and with the overburdened agencies, it isn't 2 months. It extends to 6 months and more. And you have infinitely complicated the whole bureaucratic machinery that you need for enforcement in my opinion and that is the reason I came down on the side I did.

Mr. CAMPBELL. I respect very much the gentlelady's opinion and certainly what she is trying to do. Some of us are trying to not penalize the people who are meeting their legal obligations. For that reason we left several options, one, the State could order it upfront, two, the absent parent could request withholding immediately because it is easier for some people to do, and three, that they had to do it if it became an arrearage.

The other concern that we had was the parent who doesn't work for a wage. If the person has assets, we can take a lien against his or her property for nonpayment. The person who is getting dividends, the person who is clipping coupons, the person who is self-employed—we felt that we needed to deal with that type of person somewhat differently.

Mrs. ROUKEMA. Well, we do. Of course in my bill, there is a provision for a bonding proposal and you know the technicalities of that far better than I and I would look to this committee and the expertise on this committee to establish that. I think that is an essential ingredient of any legislation.

Mr. CAMPBELL. Well, I again thank the gentlelady for her efforts on this.

Mrs. ROUKEMA. Will you allow me to make a correction because I neglected to mention it in my testimony. There is a technical correction needed in my bill as submitted and I think everyone would recognize that. Certainly I do and a simple amendment or deletion would be needed and that is that medicaid withholding was also included and it was a technical error and inadvertent and that should be eliminated from the bill.

Mr. Campbell. Well, again I thank you for all of your efforts. We will certainly look forward to continuing to work with you as we develop our legislation.

Mrs. Roukema. Thank you.

Chairman Ford. Mrs. Kennelly.

Mrs. Kennelly. Congresswoman Roukema, I listened quickly and haven't had a chance to really read your bill, but my concern is are you using a weapon of withdrawal of AFDC payments to many needy people because a State doesn't carry out its job? Secretary Margaret Heckler said previously that in the present law there is a 5-percent penalty. Now, did I hear it right? Did you really say 100 percent in your bill?

Mrs. Roukema. I said 100 precent in the bill. In my testimony, I said I understand the stringency of that and how revolutionary that is and I would recognize that perhaps a sliding scale might prove to be more appropriate but my concern is that in the present administration, if 100 percent is too stringent and not workable in the judgment of the Secretary and the judgment of this committee, then let's not, however, be so lenient that there are no real teeth in this in terms of getting both not only the bonus incentives but also some penalty weapons. And in my opinion, the first reading of the administration bill I don't think it is stringent enough in terms of forcing compliance through the States because there is nothing in this bill, in my judgment, that will get those same States that are presently in default and in noncompliance into compliance.

I think we need stronger weapons and it is our problem together to find out where that is most workable and most doable.

Mrs. Kennelly. Such as making mandatory withholding in New Jersey? I notice your State doesn't have it.

Mrs. Roukema. Well, I absolutely agree.

Mrs. Kennelly. I don't want to have us go in the direction of punishing poor people for what the Government isn't doing.

Mrs. Roukema. No, what we want is quite the opposite to have the appropriate carrot and stick balance.

Mrs. Kennelly. So balance is what we are looking for?

Mrs. Roukema. Yes.

Thank you.

Chairman Ford. I thank you very much. I thank the gentlelady from New Jersey for her testimony before the committee.

Mrs. Roukema. Thank you, Mr. Chairman.

[The following was subsequently received:]

Additional Statement of Hon. Marge Roukema a Representative in Congress From the State of New Jersey

Mr. Chairman, I thank you for the opportunity to discuss with you the growing national problem of child support enforcement. We are all aware of the statistics which demonstrate the problem and they are disheartening. Last week the Census Bureau released its figures covering 1981; it found that 8.4 million women had custody of minor children from an absent parent. Approximately 4 million of these women were awarded child support but only 47 percent (1.9 million) received the full amount due them. The mean amount of child support received by women increased from $1,800 in 1978 to $2,110 in 1981. However, after adjusting for inflation, the amount of payments decreased by 16 percent in real terms. These appalling figures are the basis of my legislation.

We now need effective measures for those children who are represented by those numbers and are being deprived materially and emotionally as a result of parental disregard. Existing programs have proven to be of minimal success in actually collecting child support and with noncompliance at epidemic levels literally millions of families in all economic situations are unable to provide for the basic needs of their children and grandchildren.

Each member of this committee could look at his or her own district and find hundreds of cases which illustrate the critical need for stricter enforcement. In my own district I am currently involved in a case where a mother has five support orders from the court saying her husband owes the support as well as all the arrearage. The husband has moved out of State, and continually fails to make his court hearings. I cculd point to many other examples, in fact I have here an article which describes another case which is telling and would ask that it be inserted in the record at this point.

[From the Easton Express, July 10, 1983]

CHILD SUPPORT—ONE COUPLE'S STORY

(By Dave Schiff)

WILLIAMS TOWNSHIP.—When Mary Lou McGinley married the heir to the McGinley Mills ribbon manufacturing firm, she never expected that one day she would find herself accepting food stamps.

But then she never expected her husband, James McGinley Jr., to file for divorce and leave her with a magnificent home, two sons and no job skills.

"You can't put an ad in the paper looking for work as a housewife," said Mrs. McGinley, 31, a slim, attractive blonde.

Her husband, 32, earned $178,000 during 1981 as executive vice president of McGinley Mills in Phillipsburg, according to a copy of his tax return for that year which Mrs. McGinley made available to The Express.

The McGinleys were happily married for nine years, she said, until Mr. McGinley moved out of the house in April 1982, and filed for divorce the following August, according to his wife.

During the first months of the separation, Mr. McGinley have his wife $900 per month for household expenses, the same amount he had given her each month when they were together, according to Mrs. McGinley. In addition he paid the $1,500 monthly mortgage payment. He did this voluntarily, and neither spouse sought to involve the county domestic relations office.

But in January came the inevitable and unavoidably painful custody hearing. After that, Mr. McGinley reduced his household expense payments to his wife to $500 a month.

"Here I was paying all of this stuff and I cut back a couple of hundred dollars a month in the cash payments," Mr. McGinley said. "I did it because I wanted her to move things into court."

Mr. McGinley got his wish. Mrs. McGinley filed a child support claim and after the couple could not come to an agreement at a private hearing in the domestic relations office, they appeared on March 18 before Northampton County Judge Michael Franciosa.

At that court hearing, Franciosa issued a temporary order requiring Mr. McGinley to pay his wife $1,317 in child support plus $1,500 for mortgage payments each month.

"Then I didn't get any money," Mrs. McGinley claims. "I went to the welfare office and filled out papers."

Although she never processed her welfare application, Mrs. McGinley said she did receive $90 in emergency food stamps at the end of March.

Mr. McGinley was ordered to appear on April 8 for a non-compliance hearing before Northampton County Judge Franklin S. Van Antwerpen to explain why he had not made his child support payments.

"The day before the hearing he sent a check," Mrs. McGinley said. "He was playing a cat and mouse game with me."

Mr. McGinley said he handed Van Antwerpen a list of things he had paid for—heating and electric bills and drug store bills—and these things amounted to more than he allegedly owed his wife. Mr. McGinley asked the judge to accept these payments as child support credits.

According to Mr. McGinley, the judge accepted the credits for the duration of the temporary order which was to run until the court scheduled a hearing for a permanent order.

"The judge said from that day forward I was to pay the domestic relations office $1,317 a month plus the mortgage," Mr. McGinley said. "I had already made a payment for April."

But Mrs. McGinley said the judge simply said he would not address the matter of the credits until a later hearing and the credits were not accepted at all. A copy of Van Antwerpen's order on file at the county domestic relations office makes no mention of credits.

"He took that (the credits) to mean that he didn't have to send me any payments for a whole month," Mrs. McGinley said. "That's why I had to get food stamps." By the middle of May, Mrs. McGinley had received no further payments from her husband. On May 13, the domestic relations office sent Mr. McGinley a letter asking him to pay his back payments.

Mr. McGinley said he went to the domestic relations office and spoke with Jean Cook, the hearing officer assigned to the case.

"The arrearage turned out to be the credits," Mr. McGinley said. "The domestic relations office showed a deficit, that the credits had not been accepted. I told her exactly what had happened (that the judge had accepted the credits)."

Mr. McGinley said that on July 1 he sent this month's payment to the domestic relations office. Mrs. McGinley said that as of Friday she had not received that payment.

"I bought $60 worth of groceries today," Mrs. McGinley said. "I now have $40."

"I'm not really impressed with the domestic relations office and how they handle things," Mr. McGinley said. "It could be five or eight days before she gets it (the July payment).

Cook was on vacation during the past week and could not be reached for comment. Joseph Hollschwandner, director of the Northampton County Domestic Relations Office could not be reached Thursday or Friday for comment, in spite of repeated attempts to contact him.

Mr. McGinley said he would be in favor of the National Child Support Enforcement Act, a bill that has been introduced into the House of Representatives by Rep. Marge Roukema, R-N.J. The bill would automatically garnish the wages of non-custodial parents who have been ordered to make child support payments.

The bill would eliminate much of the red tape that Mr. McGinley contends caused the problems between him and his wife.

"I would be 100 percent in favor of it," he said. "I know a lot of people don't make child support payments."

Mrs. McGinley said she believes that the wives of many well-paid executives could find themselves in the same straits she is in if their marriages break up.

"I would like to see women become less gullible. When he (Mr. McGinley) moved out, my lawyer wanted his Social Security number and I didn't even have it. We didn't have joint bank accounts, everything was done through (his) office," Mrs. McGinley said. "I even drove a car that was leased by the company."

Clearly this is not right. These examples are typical of the revolving door of justice through which these women pass. The judge says "pay up or else" but there is no "or else". The courts currently have no strong enforcement measure to insure that these delinquent fathers pay what they legally, and I stress legally, owe.

I have introduced H.R. 3354, the National Child Support Enforcement Act with the bipartisan support of 41 of my colleagues in response to these children. My bill would require States to implement and enforce laws whereby child support would be collected through mandatory wage withholding from the moment of a court or administrative order. Should a State fail to comply they would be in jeopardy of losing its title IV-D and XIX money. The key difference between my bill and the others which are before us today is that my bill does not wait for an arrearage to occur before withholding would take effect. Why should the custodial parent wait 2 months or more before any support is received? Further, by the time the system works months pass. The bills do not stop coming in, the children still need to eat and be clothed. This waiting time adds to the emotional tension between the parties involved. This is a significant difference and one I hope the committee will consider carefully.

I should also like to emphasize that my bill would not in any way affect existing state divorce or alimony laws or the judge's determination of the child support decree. There is no infringement here on State jurisdiction. What it will do is require mandatory withholding payment of legally determined child support. It does not prejudice any further judgment made on appeal of the spouse.

A second point is that this legislation would force States to work together in collecting out of State cases. Currently, we "technically" have a reciprocal system between the States to enforce out of State collections. The system, however, does not work as it should. Under my bill States which did not cooperate with the State of primary jurisdiction would also risk losing their IV-D and title XIX money. The rationale behind this provision is that it has become far too easy for persons to move from State to State in order to avoid paying their child support. I believe that with stronger Federal laws we can reduce the prevailing attitude of "it's not our State's problem".

Third, this legislation would cover all child support cases, both AFDC and non-AFDC. Many States presently gear their collections toward their AFDC caseload. This is admirable, but what about those non-AFDC cases which have an equal right to access and help from the State IV-D agency? There are often application fees attached to non-AFDC cases to cover administrative costs and this has in the past been deducted from the actual amount of the support payment. H.R. 3354 would collect any such fee from the non-custodial parent in addition to the support due. I am very pleased to note that every one of the four bills pending before this committee now has this feature. I talked with President Reagan about this yesterday prior to introduction of the administration bill, and I am proud of the fact that he agrees and the legislation reflects this.

A fourth point is that the collection of any past due support would be through an additional garnishment of wages either in the full amount of the arrearage or 25 percent of the non-custodial parents wages, whichever amount is less. There are proposals before us which address this facet of the problem by collecting these arrears through Federal and State tax refunds. This is a good idea. However, I feel that a loophole could be found whereby those owing the support could get around having a refund to be used in collecting this support.

The actual collection of support payments would require some implementing regulations set by the Secretary of Health and Human Services. It is my hope that these regulations would specify who shall contact the employer that support is to be withheld, where the support shall be sent in the State, and how the State will distribute the money collected. I believe that, as we currently have existing IV-D agencies in place which collect and ditribute AFDC money, we can expand upon that system to include all support collected, thus not creating the need for an additional bureaucracy. I also do not want employers to feel that the onus has been placed on their shoulders and, therefore, I would not be adverse to an additional fee being placed on the non-custodial parent to defray any cost to the employer to comply with this law. There are provisions in this bill to ensure that the employer can not use this for any disciplinary or discharge action against the non-custodial parent.

The bill also addresses those cases in which a person is self-employed or has income from sources other than wages. In these cases the posting of a bond would be required to insure that support would not become delinquent; should this happen the bond would be used.

Now, I realize that the committee is going to examine these various proposals and make many alterations. But I just want to plead with the Committee in the strongest possible way that the features of non-discrimination between AFDC and non-AFDC recipients must be kept. It is in every proposal and it should be retained.

In order for stricter enforcement to work, I believe we need to make the adjustment as easy for the States as possible. Of all the pending bills, mine is the simplest and most direct. While it may seem to some revolutionary in concept, it is in fact efficient and effective. It uses existing mechanisms and sets up no new bureaucracy. We need to change the existing laws so that withholding is immediate and automatic. We must also give the States realistic guidelines to follow, but with strict penalties should they not comply. I realize that the losing of title XIX monies in my bill is very stringent, and I would be willing to discuss further with the committee on that point at the appropriate time, but I do feel that States should know they will lose a significant amount of money if they do not comply. Any bill that comes from this Committee must have well defined audit criteria, incentives, and penalties which are credible and will be a significant enforcement and compliance weapon. I agree that the administration's proposal to institute a graduated penalty for noncompliance may have substantial merit. It would impose a 2-percent penalty for non-compliance after the first review, 3 percent for the second and 5 percent for the third. If we are going to have such a system, why not go further and mandate that should compliance not occur after the third review that the state would be denied all funds until changes are made so that they conform with the law?

We as legislators must remedy this shameful situation. No mother, no child, no family should have to bear the burden of endless and debasing legal battles before they can receive the rightful support which due process has decreed.

In closing, Mr. Chairman, let me commend you and the ranking minority member (Mr. Conable) in particular and every member of this committee for the commitment you have shown on this issue. I also want to thank Secretary Heckler for her efforts within the administration. This is a crucial issue and I look forward to continue working with all of you as we move ahead in getting corrective legislation passed on this most important issue.

Chairman FORD. The Chair at this time would like to call on Hon. Bruce Morrison from the State of Connecticut.

Mr. Morrison, we are delighted to have you before the committee and we recognize you at this time for your testimony.

STATEMENT OF HON. BRUCE A. MORRISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. MORRISON. Thank you very much, Mr. Chairman. I would like to submit to the committee additional written testimony following this appearance.

Chairman FORD. Without objection, it will be made a part of the record.

Mr. MORRISON. I first want to start by commending the committee and its chairman for taking the initiative to move this issue forward, and particularly to my colleague and friend from Connecticut, Congresswoman Kennelly, for her leadership in putting together this bill and taking the initiative to seek the Congress action in this area.

I have asked to testify today because I have some particular experience with the issues that you are dealing with. In the 10 years before I became a Member of the House, I was a legal services attorney. In that role I represented people on both sides of this problem. Many of my clients were poor women faced with a problem of nonsupport, who had elsewhere in the community and the State and across the Nation former spouses and fathers of their children with responsibility to pay support.

I also have represented individuals who come within the ambit of the enforcement provisions that we already have under title IV-D and under State law. Some of them are individuals who can and should pay. Some of them are people whose financial situation is as bad or worse than the person to whom they have the obligation.

The problem of nonsupport is a significant one. We need a more comprehensive, more appropriate set of Federal statutes to deal with it. We also need to look very carefully at the realities. In other words, our goal should be to target this law effectively. Those who can pay, should pay. But we must recognize that there are those who can't pay—those who should pay in a sense of responsibility for their children but who, in fact, are unable to pay significant amounts. We have to be careful that the law that we craft puts the energy of the States and the Federal Government to work in collecting the meaningful sums of money that can be collected.

Frankly, too often I saw that while the mechanisms were set up to collect from those who were well-to-do and should have paid, the actual enforcement net fell upon those who could not, who often had second families to support. The choice was not whether the person would pay to support children, but which children he would pay to support. That is not a nice situation, not a good situation, but we live in a society that condones openness with respect to changing partners, which condones the fact that when one family breaks down, people move on and form new families. That is a reality of our society. Some may decry it, but it is a fact. And if we don't recognize the fact that it is true, we will sometimes make mistakes about our priorities and we may hurt a new family in the name of helping the first one.

That is not to say that we shouldn't have enforcement. That is not to say that we shouldn't change the laws. It is to say that we should be aware of these facts while we are crafting the new provisions.

I would ask you to look at title IV-D as a whole—not just to supplement the existing system by applying it to those not within the AFDC system, but to look at it as a whole and try to balance it and come out with a comprehensive rational system for collecting child support.

It is important to remember that sometimes what we are dealing with in the AFDC situation is not so much the family, the mother and children, versus the absent father, but with State reimbursement versus the absent father.

Now, that is another issue. We may decide as a matter of public policy that the States should be reimbursed, but it is a different issue, with different ramifications, and we should understand that it is not a situation of a family that will be better supported if the payments are collected.

Another area that we should be aware of, I think, is to make sure the system is flexible enough to make sense in the situation where a family becomes reunited. Frequently families separate, the children go on AFDC, an AFDC-originated order for support is created, and then the family gets back together and the enforcement machinery goes to work collecting the arrearage, against the interests of the newly reunited family—in fact, taking money out of the family at a time when that puts another strain on their ability to stay together. I think the law needs flexibility to respond to that, and to understand that the future viability of the family is more important than the State's concern with collecting a past arrearage for AFDC. Under the current law, that is a problem that does exist.

Another area that I would like to talk about is how our present system works in intercepting tax returns to repay support arrearages. Certainly for those who actually owe back support and who have a tax refund coming to them, there is nothing inappropriate in trying to secure that money to pay it to the person to whom it is owed. However, I know that in our State of Connecticut we had a serious problem in which tax refunds were taken under the system without any prior notice or opportunity for the person whose tax refund was being taken to demonstrate that, in fact, he or she did not owe the money. And many, many people did not owe the money. Some were current in their support payments. Some were spouses of someone who owed the support payment, but they were not themselves liable. It was their spouse who had some obligation and they happened to have a tax refund coming because they had filed a joint return.

The point here is not any inappropriateness in the attempt to secure the payments due, but the need for a procedure that protects against abuses, because those abuses can be very damaging to other families and other children. It is no one's interest to play one family and group of children off against another. Our goal should be to get equity for all of them.

Let me also say that we should look carefully at the numbers that we hear about in discussing this problem. I am sure the amounts of money involved are substantial, but I am also sure that they are inflated by some of the problems of administration of the system that we have. For instance, I know in Connecticut that family relations officers carry caseloads of 1,000. Many of the records that they keep are inaccurate, as it turns out. Many payments are not recorded. Many informal payment agreements are not recorded, and some of that is a problem.

In addition to that, under the welfare system, we have a situation in which often the support order as a matter of State law, and this is true in Connecticut, represents the entire total of AFDC payments made to the family. You will have people very quickly running up arrearages of thousands and thousands of dollars which no court would ever realistically order those individuals to pay. Yet, as a matter of State law, that liability exists, and you will read of tens and twenties of thousands of dollars owed by people whose income has never been more than $100 a week.

Finally, I am very concerned when I hear about the penalty provisions that are being talked about, because certainly the worst thing that we could do would be to cause AFDC recipients to receive smaller allocations because the State didn't go out and do its job properly.

In summary, my concern is that as we move ahead, as I hope we will, to confront this problem, that we understand that it is not a black and white situation. It is essential that we look closely at our present system before using it as a cure-all for the larger problem. It is essential that we focus our priorities.

So that kind of balance I think is critically important. I will be happy to consult with Mrs. Kennelly in particular to try to give her the benefit of my direct experience, to try to focus this legislation to do the job that we all want done—which is to see to it that those who can pay, do.

Chairman FORD. Thank you very much, Mr. Morrison, for your testimony.

The Chair will recognize Mr. Campbell.

Mr. CAMPBELL. Thank you, Mr. Chairman.

I am very sensitive to the point that you made on the withholding of income tax refunds. I believe that matter has pretty well been resolved since the first year under the AFDC, though. There were problems. HHS has since changed regulations.

I think Connecticut has since changed its law so there is a requirement for notice, and there should be. You are absolutely right. We can't have something go into effect that does not in fact give due notice for such a procedure taking place. I appreciate that comment very much.

Regarding the statement about the figures being inflated or noninflated, I think we have two groups that we need to look at. Perhaps your AFDC figures are inflated because of the way that it is handled, and what has been focused on.

But it is my belief that the non-AFDC payment in nonsupport cases are not inflated. As a matter of fact, they are probably underestimated—because many parents don't even try because they know it has been hopeless in the past to get help from the court. And also there is the fact that many women remarry and drop out. They make no further effort even though there might still be a legal obligation of the absent parent. In cases where there is not an adoption, they still have an obligation.

So I think that even though there may be some inflated figures, the enormity of the problem is such that we need to deal with it in the largest sense.

But I thank the gentleman. I think you raise some very good points and some points that we certainly will consider in drafting our legislation.

Mr. MORRISON. Thank you. I would say I certainly do not minimize the existence of the problem, and I hope we will set priorities so the problem will get smaller.

Chairman FORD. Mrs. Kennelly.

Mrs. KENNELLY. Thank you, Mr. Morrison.

I am glad to see as a Congressman you have not forgotten your legal aid training of remembering the individual. I agree with you on four out of five points, and we will have to talk about that fifth.

On joint returns, our chairman brought that up earlier today and that is something we will be very aware of. Families reunited is a new idea to me and it is something I will be aware of.

The arrearages, we have seen those cases where it builds up beyond any thought that it could be paid up and that is something we have to address. Of course, obviously I am worried about making poor people have the penalty for the ineptness of the State organization.

However, the first point you mentioned, I think we are trying to do something. We are certainly not trying to be moralizing in this bill or preaching in this bill, but you mentioned the word "condoning" an individual who has one family and has another family and has to choose which family you support.

I think one of the things we are trying to do with these hearings and make the public aware of and put it in the Congressional Record is that a person has to realize that once they have had one family of children that they have a duty to support, maybe they should not have another family until they can do for that first family.

I think that is something I would like to have come out loud and clear in this. You can't just go on and on. You do have responsibilities once that child is born.

Mr. MORRISON. I agree with you, you have those responsibilities, and I would hope that individuals would make their life choices with that sense of responsibility.

I do wonder at the extent to which this particular piece of law and this particular kind of legislation is going to affect how people make those decisions. I think they are much more complex and they have a lot more to do with other things going on in our society than they do with how we run our support laws.

I want us to be properly humble about our ability to affect that behavior and be careful that we don't put the penalty where it does not belong, which is on the second set of children who, regardless of the fault of their parents, are with us and need to be supported every bit as much as the first set of children.

Mrs. **Kennelly**. We are going to have to argue this out later.

Mr. **Campbell**. The other thing I was interested in, I notice that recent study of per capita income after divorces in California showed that the wife's income dropped by 73 percent on the average while the husband's rose by 42 percent a year after the divorce.

I think that we need to be keenly aware of that and when we talk about a second family or a moving on by that husband, we need to be aware of what happened to that first family in the process.

I think that even though we certainly can't and don't hold out that this is going to influence the second decision, certainly we should not relieve an obligation. We should leave no impression that we would encourage people to abandon an obligation; in fact, we intend to make them live up to that obligation within the law.

Mr. **Morrison**. I think we should do that to the greatest extent possible. It is a question of exemptions, really, in the end.

Mrs. **Kennelly**. Mr. Morrison, to show you that I am and can be realistic, I would like to point out that when I began looking into and studying this question, that study that was done in California, the 3,000 people where the woman went down and the man went up, it was so startling to me that I went to a corporation head and asked him, could this be true? Had he seen any examples of this?

He said, "Yes, of course I have. Once the man drops the family and drops the wife, he does not have to go home. He can work harder and work longer hours."

So I have become very realistic on this subject.

Chairman **Ford**. Thank you, Mr. Morrison.

Mr. **Morrison**. Thank you, sir.

[The following was subsequently received:]

Supplemental Statement of Congressman Bruce A. Morrison

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to be more specific about some of the comments and suggestions I made in my oral testimony.

First, I would like to share with the Subcommittee information about some real individuals from whom support is being sought under the IV-D program. I hope that this will help to put some of my arguments in a meaningful perspective. As I mentioned in my oral testimony, there have been significant problems with the tax refund intercept program as it has been implemented in Connecticut. These problems resulted in a lawsuit, *Nelson* v. *Regan*, Civil Actions N-82-173 (D. Conn. 1982), in which individuals whose tax returns were taken for allegedly unpaid support challenged the IRS's procedures. I would like to quote from District Judge Ellen Bree Burns' description of the circumstances of the plaintiffs in that case:

"Elinor Nelson's entire refund, almost $3,000, was intercepted even though she owed no support at all, inasmuch as the state's action against her for support had been dismissed in June 1981. Similarly, Dorothy Whitfield, who was jointly entitled to a refund of almost $990, received no refund though her husband, not she, owed the past-due support. All the Whitfield's 1981 income was earned by Mrs. Whitfield . . . Edward Madzik's entire refund of $410 was intercepted even though his past-due support obligation was discharged in bankruptcy in November 1978. Similarly, Philip Corso's expected refund of about $830 was intercepted although some part of his obligation had been discharged in bankruptcy. . . . Even though Dennis Eaton had been advised by his caseworker not to worry about making support payments when he was hospitalized for a traumatic leg amputation, his entire $500 refund was intercepted. Douglas Spell's caseworker also told him not to worry about making payments while he was unemployed, but his entire $938 refund was intercepted.

"Elinor Nelson earns $250 every week; she has savings of $200 in a bank account. Ms. Nelson receives no public assistance. She has four dependents, none of whom contribute to household expenses; she owes a light bill of $250. Had she received her income tax refund she would have purchased a bedroom set for her seven-year old daughter, who sleeps with her now. She would have paid her light bill and purchased a washing machine (she now goes to a laundromat) and clothes for her children, who "need everything." The state acknowledges its error and indicated it will forward a refund to Ms. Nelson whenever it receives payment from Internal Revenue.

"Because his leg was amputated, Dennis Eaton cannot work and collects $43 biweekly from the City of New Haven, which also pays his rent. He has medical bills not covered by insurance; his savings were depleted by other medical costs. Mr. Eaton owes his father money and needs funds to purchase a prosthesis, without which he cannot undergo physical therapy or work. Mr. Eaton recently filed a motion to retrospectively suspend support payments.

"Douglas Spells found a job in June 1981, which paid $145 per week after having been unemployed for seven months; he currently makes $166 per week. His wife does not work and he has three children living at home. He is currently paying support arrearages pursuant to a voluntary wage execution. During the months he was out of work, Mr. Spells was attending school; he had $525 per month income as a veteran and received a student loan. His monthly rent is $205, which does not include utilities; he is behind in payments for his student loan and he owes a $400 hospital bill. He intended to pay bills and purchase clothing for his children with this refund.

"Edward Madzik earns $150 every week. He lives alone paying $54 rent per week. He has no savings and owns nothing. He intended to pay his adult children's debts with his refund.

"Philip Corso earns $334 per week; his wife does not work. The Corso's monthly rent is $400, which does not include utilities. He has savings of about $600 and outstanding bills of about $675. Mr. Corso would have apparently spent his refund on clothing and automobile repairs of about $250.

"Dorothy Whitfield works on two jobs and brings home about $150 every week to support her two children and her husband who is unemployed because of his disability. Her monthly rent is $158, which includes heat. The Whitfields live in housing apparently owned or managed by the Department of Housing and Urban Development, which has threatened to evict the Whitfields because they owe $400 back rent. The Whitfields have no savings; Mrs. Whitfield testified she planned to use her refund to pay bills, purchase clothing and for car repair."— Id., Memorandum of Decision on Motion for Preliminary Injunction, June 4, 1982, Slip Opinion, pp. 6-9.

These people are not doctors and lawyers. Some are women, some are men. Some have second families. Some are living with their original families. All are poor. And the funds from the tax returns that were intercepted were not taken to provide current support for needy children. They were taken to reimburse the State of Connecticut for welfare benefits received in the past.

In dealing with this legislation, I hope the Subcommittee will take a look at some of the problems with the existing system and at some of the ways that it can work against the interests of needy children and families. I believe that the Subcommittee will find, first of all, that changes need to be made in the existing IV-D program as it relates to children on AFDC, and secondly, that some of its standards and procedures should be changed before the system is given additional application to non-AFDC situations.

I would like to suggest a few areas which I think would be fruitful for the Subcommittee to examine:

NOTICE AND PROCEDURAL PROTECTIONS

As the intercept program worked in Connecticut, the state agency responsible for implementing the IV-D program gave the IRS a list of individuals supposedly deliquent in their support obligations. The IRS intercepted the tax returns of these individuals and instead of sending a refund check, sent a notice that the check had been taken to satisfy the arrearage. In a number of cases, the claim that there was an arrearage was, in fact, incorrect.

People should have an opportunity to contest the claim that they owe an arrearage before their money is taken. And people who do in fact owe on an arrearage should at minimum receive prior notice that their refund will be intercepted, so that they can plan accordingly. Most people have plans for the use of their tax refunds, and for low income people, disruption in those plans can mean utility shutoffs or evictions.

I believe that the statute should require state agencies, prior to giving the IRS the name of any individual deliquent in a support obligation, to notify the individual and offer him or her the opportunity for a hearing to contest the claimed arrearage. (This is precisely the relief ordered by the Court in the Connecticut case, which found the lack of such protections to be unconstitutonal. However, the IRS has appealed this case and has not changed its policies except in Connecticut. I understand that similar cases have been brought across the country.)

Similar due process protections should be required prior to imposing a wage execution or any other government-imposed taking of property for a claimed arrearage. I believe such protections are mandated by the Constitution, as the federal courts have rules in a number of cases. *Sniadich v. Family Finance Corp.*, 395 U.S. 377 (1969); *Lynch v. Household Finance,* 405 U.S. 538 (1972); *Fuentes v. Shevin,* 407 U.S. 67 (1972).

COLLECTION EFFORTS FROM INDIVIDUALS CURRENT ON COURT-ORDERED SUPPORT

When an individual falls behind on his or her support payments and accumulates an arrearage, the courts will often order a regular payment towards the arrearage in addition to regular current support payments. In deciding the amount that the individual should pay towards the arrearage, the courts look at his or her total financial circumstances. Yet it is IRS policy that even if such an individual is up-to-date in making court-ordered payments on the arrearage, as well as current support payments, he or she is still considered to owe past-due support, and is therefore subject to the intercept. Under these circumstances, the IRS is taking funds beyond what the courts have determined the individual is able to pay. I urge the Subcommittee to amend the intercept provision to eliminate this inequity and to ensure that it is not repeated in other analogous situtations.

RETROACTIVE MODIFICATION

Arrearages can accumulate when an individual is laid off, misses work because of a period of disability, or hs unforeseen expenses. Spouses, welfare workers, family relations officers, and others charged with collecting support payments often make informal agreements to suspend or reduce payments under these circumstances, without going back to court for a modification or formally amending an administratively imposed support order. Nevertheless, the underlying obligation continues to accumulate and remains "past-due" even when the individual resumes regular payments. Under current practices, such arrearages cannot be retroactively modified, even if the individual could show that he or she had no ability to pay at the time. I would urge the Subcommittee to permit retroactive modifications of arrearages as part of any federal system to collect past-due support.

DEFINITION OF PAST-DUE SUPPORT

As I stated in my oral testimony, under Connecticut law a IV-D support obligation is considered to include all AFDC benefits paid on behalf of a child, without any determination of the individual's ability to pay. As a result, many individuals who have never missed a support payment are considered to have huge arrearages. Under these circumstances, I believe that it is inappropriate for the government to take steps to attach an individual's tax return or other property. I suggest, for the purpose of the federal program, that "past-due support" should be defined to apply only to support orders based on ability to pay.

EXEMPTIONS

The most important step that the Subcommittee could take to ensure that federal efforts to improve the collection of child support are appropriately targeted would be to develop a reasonable system of individual and family exemptions for use in defining ability to pay. Such a system would protect the well-being of needy children in situations where the individual has a second family or has reunited with his or her original family and the obligation is owed to the state for reimbursement of AFDC. Most importantly, it would focus our federal efforts on those situations where we can really make a difference in childrens' lives.

Mr. Chairman and Members of the Subcommittee, I have centered my comments on those who owe support obligations rather than on those to whom they are owed. I have done so not because I minimize the problem of unpaid child support, but because I believe that the federal government cannot take truly meaningful steps to solve that problem without looking carefully at the widely differing circumstances of those from whom support is sought. I hope the Subcommittee will take account of my suggestions as it proceeds in its consideration of this important legislation.

Chairman FORD. The Chair will recognize the first panel: Ms. Gail Forsythe from Selmer, Tenn.; Ms. Elaine Fromm, the Organization for the Enforcement of Child Support, introduced earlier by Congressman Clarence Long of Maryland, who testified here before the committee; also, Ms. Bettianne Welch, president and cofounder from FOCUS [For Our Children's Unpaid Support]; also, SPLIT, Inc., represented by Ms. Virginia Ingle; and from the National Woman's Law Center, Ann Kolker.

Ms. Forsythe is to my far right; is that correct?

The Chair will recognize you in the order that you are listed on the panel.

Ms. Forsythe.

STATEMENT OF GAIL FORSYTHE, SELMER, TENN.

Ms. FORSYTHE. Thank you.

I am Gail Forsythe. I am a single mother of two children. I am also a teacher. My work, and my own experiences have awakened me to the problems of single mothers unable to provide adequately for their children.

For years I have dealt with the children of mothers working in low-paying jobs who can't afford to leave work to care for sick children. It is so depressing to see children whose single parents can't afford eyeglasses and dental work because they make too much money to qualify for medicaid; latchkey children left alone to care for smaller children so their mothers can hold down a series of part-time jobs to make ends meet.

As a teacher I marvel that they survive, much less reach their academic potential.

After divorce the father's income rises, the mother's drops. It is sad and frustrating that all the time these children are suffering hardships, many of their absent fathers can afford Caribbean cruises, new sports cars, and motorboats.

Socioeconomic background is the most critical factor in determining school success, yet thousands of children are forced into deprived living conditions because their recalcitrant fathers won't pay for their support. Children's attitudes about themselves and the world are formed in the family setting.

We shouldn't wonder that learning problems, underachievement and social problems are especially prevalent among children from broken homes. As the divorce rate has climbed, the problems have become more obvious in the schools. Schools cannot make up for the lack of a decent standard of living.

Traditionally, it has been assumed that a single mother would find another husband to provide for her and her family. This doesn't happen often. Even where it does happen, a second husband can resent and even abuse stepchildren.

Sadly, many mothers accept this abuse, because they know that they will have to give up their economic security if they leave.

In other cases, the natural father is allowed to make unreasonable demands and disrupt the normal lives of the children because their mother fears that otherwise he will cease paying the child support.

Because of the failure of the courts, the threat to withhold child support has become a weapon that fathers can and do use to force mothers and children to comply with their demands. I personally have been placed in this unpleasant position.

My own children, like thousands of others, have been denied their economic birthright by a father who swore he would never pay a dime in child support, and by courts that have failed to enforce their own orders.

The truth is that if a father chooses to be uncooperative, there is little a mother can do.

A recent report shows that only 47 percent of women get the full amount owed them. The father can move to another state, or another country. Child support orders must be enforced in the father's home court. If the mother is managing to keep off AFDC, she is expected to foot her own bill for collection.

My ex-husband is a noted professor of nuclear physics at an Ivy League university, and a consultant and lecturer. I worked while he was in undergraduate and graduate school. I typed his doctoral dissertation.

Upon leaving my husband 11 years ago, I borrowed money to finish college. I couldn't get a tuition grant because I had been out of high school more than 5 years. Since I was receiving no support, and had no income, I tried to get AFDC. If I had been given the same money, I could have qualified for AFDC.

Because of the lack of educational opportunity, most mothers give up trying to better themselves and are stuck at the bottom of the income ladder. However, with two children, I completed 3 years of college work in 2 years and graduated cum laude. I paid off my last college loan after my son entered college.

I don't qualify for a low interest home loan through the Federal land bank because I don't make enough money. But I make too much money to qualify for legal aid to help me collect my child support.

I am told that many other mothers are caught in this situation.

I went to court five times between 1972 and 1979, traveling to a distant State and paying attorney fees. The last trip in 1979 cost me $1,300. That court in Media, Pa., raised the support and required that my former husband pay all medical bills plus almost $2,000 in arrears in a lump sum.

When my former husband didn't obey that order, I was told to come back into court—again at my own expense—and sue him for contempt of court. I was told that, even if I did this, I had no guarantee that he would be made to pay. I decided that I couldn't afford to collect my support.

Also, I learned from IRS that if I spent, say, $4,000 collecting, say, $2,000 in support, my former husband could then claim the two exemptions for the children on his income tax return. I would then have to file as "single" rather than "single head of household."

This means that I would have to pay much more in income tax, with no credit for the $4,000 I incurred in collecting the support. Because of this unfair quirk in the Tax Code, countless mothers have lost money collecting child support, and have decided to give it up.

My former husband failed to file tax returns for several years. He went abroad on sabbatical leave, and I am told that the passport office never checks to see if income tax returns have been filed, or if child support has been paid.

Later, I found out that I could use the Uniform Reciprocal Support Act to pursue my case further. My district attorney in Tennessee has worked untold hours on my case. As poor as it is, Tennessee has one of the best records for child support collection in the Nation.

As this act requires, we prepared a petition and forwarded it to the Philadelphia, Pa., court because my former husband had moved to that city. The court in Philadelphia did not follow through with the petition. Neither did they review the record of the hearing that had been held in Media just months earlier.

In a hearing held without notifying me or representing me, they accepted testimony given by my former husband and ignored documentation which would prove that testimony to be false.

This court ordered the support reduced and allowed my former husband to pay off all arrears at $2 per week; my son would have been 34 when it was paid off. There is never any interest on past-due child support, and courts too frequently choose to completely throw away all or portions of past-due support—as they did later in my case.

My district attorney was shocked when he read the transcript of the hearing, but an attorney in Philadelphia told me later that the Philadelphia court does everybody this way.

While my former husband has had his wages attached on several occasions, he soon learned how to avoid this penalty. Because wages are attached only if three consecutive payments are missed, he simply missed no more than two in succession. By skipping payments in this way, he built up an additional debt of $2,500 in 2 years.

In 1982 my district attorney and I again prepared a petition and forwarded it to the court in Philadelphia exactly as they instructed. Upon reading the transcript of the hearing, we noted that it wasn't even mentioned.

All the approximately $4,500 in past-due support was thrown out, I was required to pay half the old medical bills, and the child support was again reduced.

Again, my district attorney was incensed, but he noted that he has seen similar things happen in some other courts, and sometimes feels like he is wasting his time preparing cases.

Attorneys don't like child-support cases because they are messy, they don't pay as well as other cases, and because the outcome depends more on the pleasure of the presiding judge than on the merits of the case or the skill of the attorney.

According to attorneys, judges favor people who live in their jurisdiction, which is a disadvantage to the mother following a father to another State.

There are no cost-of-living increases in child support, just as there are no standards relating to how much a father should pay. I know a teacher who earns less than I and whose wife earns double that, yet he is required to pay more in support for two preschool children than my former husband is required to pay.

The $60 per week my former husband is now ordered to pay is less than he was paying for psychological counseling for his son and marriage counseling when we were living together.

Up until school was out, I had been working up to 85 hours per week for almost a year. While a full-time teacher, I also taught a night class for a junior college, and worked nights and weekends at a department store at minimum wage. I was off Christmas Day and Easter to be with my children. My daughter gave up extracurricular activities in order to help out at home.

My former husband, like many others, allows his children to see his high standard of living. The last time they visited his home they marveled at how much better he lives.

He sends my children postcards from all over the country and virtually all over the world. The last time my daughter received one, she tore it up and threw it away.

The 14th amendment guarantees "equal justice under the law." In view of this, will someone help me explain to my children and many others why they are being penalized because their father is alive?

If my former husband were dead, my children and I would be receiving $1,500 per month from social security. Thousands of others would also be better off financially if the father were dead.

How many of us would pay our bills on time if we had to pay no interest or penalty? Child support is no less important than income tax and social security for which we have mandatory withholding.

For thousands of children and mothers now living from hand to mouth because of the laxity of the courts, the expansion of child support enforcement and mandatory withholding is a step in the direction of improving their standard of living.

Chairman **Ford**. Thank you, Ms. Forsythe.

I received a phone call from your Congressman, Don Sundquist, who indicated he wanted to be here with you this morning. He was unable to make it because of a conflict, but he did phone me earlier.

At this time, the Chair would recognize Ms. Fromm.

STATEMENT OF ELAINE M. FROMM, PRESIDENT, ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT

Ms. **Fromm**. Good morning. It is an honor to have been invited to be here to speak with you on this vital issue.

The Organization for the Enforcement of Child Support was founded in 1979 as a result of the many frustrations faced by parents trying to obtain their child support. As individuals, we felt we could get no help and could do nothing to help ourselves, but joined together as a group, we could seek out the problems involved in child-support enforcement and also seek solutions to those problems.

I personally have fought the system since 1961 when I was abandoned 8 months' pregnant and having three babies aged 1, 2, and 3. The struggle to survive was impossible, but worse yet was the struggle to enforce the court-ordered child support of $7 a week per child.

I, like so many others, finally gave up the fight. Now, through this organization, I have my revenge. I wish to avenge my children's plight by doing all possible to rectify the problems for all other children in the Nation.

Child support has been a little known and much misunderstood social problem. It has for decades been kept under wraps as it insidiously swelled like a cancerous growth.

The welfare system is bursting with nonsupported families. In our Nation, 86 percent of the people receiving AFDC are eligible for that program due to nonpayment of child support by an absent parent.

However, this 86 percent figure does not account for the many families who choose to attempt to maintain their self-sufficiency by refusing AFDC. Such people find that through legal loopholes they are often penalized for being employed.

Federal and State programs have been established to help collect for the welfare families, but help for the non-public-assistance families is practically nonexistent.

Congress, in years past, has acknowledged this problem by graciously passing legislation to help. The Uniform Reciprocal Enforcement of Support Act and title IV-D were enacted. More recently, the tax refund offset program, IRS full collection process unemployment intercept, title XIX, military garnishment, and the new military allotment programs have all been improvement mechanisms.

Our organization sincerely appreciates all of these efforts on the part of Congress. However, it remains for these programs to be implemented on the State levels. Most of these programs are not available in non-AFDC cases.

Our primary goal is to see that title IV-D becomes enforced in the States. Congress intended that title IV-D should be available to all children in the pursuit of their child support. However, the States do not comply with IV-D regulations. Limitations and restrictions are placed upon individuals in all of the States. Examples of such limitations would be: Persons who do not receive AFDC are not eligible for child enforcement services in some jurisdictions, and in other jurisdictions unreasonably low income limitations are placed upon the applicants.

Many times people are not even given the opportunity to file an application for services. They are denied or discouraged at the point of entry in the State agencies and the local jurisdiction.

Title IV-D provides a penalty for noncompliance. Five percent of the welfare grant would be taken from the States. To date, according to the Federal Office of Child Support Enforcement, no State has ever been penalized the 5 percent even though various audits have proven nationally that States are out of compliance.

The Federal Office of Child Support Enforcement, rather than impose the penalty, has softened the regulations to allow for substantial compliance. The points that are considered in determining substantial compliance do not even include nonenforcement for non-AFDC people.

It appears that the States are only interested in enforcing child support in AFDC cases so that the States may be reimbursed for the welfare grants paid.

Our organization wholeheartedly agrees with reimbursement to the States, but we think the most important thing of all is to see that children get their support. The Federal Office of Child Support Enforcement and the State offices were originally set up to do that job and it is not being done.

Statistically the charts show that States are proving a high rate of collections for non-AFDC cases, but when you investigate a little more closely you find that the lack of an application to start with, coupled with the lack of enforcement on the applications which are accepted, show that no work is being done to enforce cases for those non-AFDC families who do not qualify under various State regulations.

Therefore, our organization considers that the Office of Child Support Enforcement was probably mistitled and could very well have been called the Office of State Support Enforcement instead.

It would be very cost effective to implement the laws to cover non-AFDC people, because as soon as money started flowing in to the children, there would be an immediate decline in the influx of AFDC applications.

Some great proportion of the 86 percent of the people who are receiving AFDC could eventually be cut from the rolls. The money that is saved on these welfare programs could be applied to the non-AFDC collection programs.

An easy start in non-AFDC enforcement would be with Congressman Long's bill, House Resolution 216.

Earlier, there were several questions posed that I would like to address. Chairman Ford asked about obligors who remarried and filed joint returns and the intercepting of the joint return, half of which would belong to the new spouse.

I understand that there is a plan in progress whereby the second spouse could apply to get her half of the income tax back because it was not her obligation to start with.

Further, we believe that if the second spouse had worked and contributed to the income for that year and filed a joint return with her husband, she then would be entitled to her half of the income tax. But if she were not employed and they filed a joint return simply because they were married, I can't see that she should expect to receive back half of that income tax refund.

Mrs. Kennelly asked about the States verifying arrearages. To our knowledge, it seems as though the States plan to first work on the cases which have had orders whereby the money is paid through the system. There, of course, would be a record of what money has been paid in and what arrearages are due.

On the other cases wherein the court has ordered money paid directly from the obligor to the obligee, it would be based originally upon an affidavit by the obligee as to the amount of arrearages and the fact that she wants to pursue this case through the TROP program. Then the obligor would have to be contacted to verify whether or not he has proof that he has made payments. It would be more complicated. To date, I don't think plans have been finalized on this procedure.

It would be easy to implement TROP for non-AFDC people, because the system is already set up and operating.

It would be no problem to simply add on the non-AFDC cases. TRIP collected $170 million in its first year.

Our organization has prepared written testimony on Congressman Long's bill, in addition to House Resolutions 2374, 926, and 3354, and also Congressman Campbell's proposal.

We wholeheartedly support all of these measures, with some suggested amendments.

We have also prepared written testimony on Congressman Biaggi's bill which would establish a commission to study child-support problems. We have submitted all of this written testimony to you today, and I am prepared to answer any questions you might have.

[The prepared statement follows:]

STATEMENT OF ELAINE M. FROMM, PRESIDENT, WILLIAM E. FROMM, SECRETARY AND ASSISTANT TREASURER, CLARE HARRIGAN, RECORDING SECRETARY AND LEGISLATIVE CHAIRMAN, ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT

Thank you, Congressman Long. Good morning, Mr. Chairman, distinguished committee members, and ladies and gentlemen. It is, indeed, an honor to have been invited to speak with you on this vital issue.

The Organization for the Enforcement of Child Support (OECS) was founded in 1979 as a result of frustrations on the part of many custodians of minor children who had struggled for years, in unsuccessful attempts to collect their children's court-ordered support.

I, personally, have fought the system since 1961, when I was abandoned, 8 months' pregnant, and with three babies whose ages were 1, 2, and 3. The struggle to survive, coupled with the struggles within the welfare system, were horrendous. But the fight to attempt to enforce the support order of $7 per week per child was impossible to win. I, like so many others, gave up the fight. Now, through this Organization, I have my "revenge". I wish to average my children's plight by correcting the injustices in the system for the benefit of all other children.

GENERAL INFORMATION

Child support has long been a little-known and much-misunderstood social problem. It has, for decades, been kept under wraps as it insidiously swelled like a concerous growth. The welfare system is bursting with non-supported families. Federal statistics show that 86 percent of people receiving AFDC are eligible for that program because of non-payment of child support by an absent parent. However, this figure does not account for many non-supported families struggling on a day-to-day existence who reject welfare and choose to remain self-supporting. Such people, because of their pride and sense of fairness to their fellow taxpayers, find themselves penalized by the limitations of our Federal and State laws, policies, and procedures.

State governments have established program after program in attempts to reimburse themselves for welfare moneys expended; but help for the non-welfare children is practically non-existent. Many of these non-AFDC families are the "threshold cases." They subsist on the brink of falling into the public assistance caseload if they should become faced with any setback, such as some medical or dental need, or a custodial parent's pay cut, or a home maintenance or repair expense. Many others, who enjoy slightly higher incomes, still bear the brunt of severely lowered standards of living, as illustrated in the attached story, "A Kids'-Eye View."

SOCIAL RAMIFICATIONS

The social ramifications of non-support are highly significant. After all, we are really talking about the children's money. However oftentimes children suffer peer ridicule because of their poor clothing, lack of material possessions, scarcity of money for school field trips, and having to use free lunch tickets. Countless children suffer psychologically, hiding their feelings that perhaps they are to blame for the parental problems and that they are somehow at fault since their absent parent does not love them enough to support them. Some of these children, upon reaching majority, express negative attitudes about traditional concepts of marriage and parenthood.

When custodians must work more than one job to make ends meet, the children are left, unsupervised, and have the opportunity to get into trouble. I ask you to consider the problems of teen-age drug abuse, crime, and promiscuity causing unwanted pregnancies or social diseases, and then consider the taxpayers' burden of paying for the arrests, the trials, the incarcerations, the rehabilitations, or the support of the resulting illegitimate children. Non-payment of child support is a self-perpetuating, subtle form of child abuse, now and for future generations.

When a person's house is on fire, one does not have to meet financial criteria to have the fire department come and put out the fire; if a citizen is mugged, there is the representation of the police and the State's Attorney and the courts. Every child in the nation is entitled to a free education, regardless of the family's income. Why cannot every child in the nation be entitled to collect child support, independently of family income? Families are taxpayers, too.

The taxpayers are tired of assuming other people's obligations. Additionally, we have long overlooked the dilemma of the financial burdens to the extended families. Numerous grandparents assume large portions of their grandchildren's support. Stepparents often shoulder the burden of a ready-made family while the natural parent lives a life of luxury and ease.

STATE SUPPORT—NOT CHILD SUPPORT

Although non-payment of child support is a problem viewed as "a national disgrace," in reality, the system itself is a national disgrace. In the Office of Child Support Enforcement's Sixth Annual Report to Congress the records show that, in most States, expenditures are nearly as great as collections. Only a few States report significantly more collections than expenditures, while several States collect less than they spend. That is a disgrace! Who is accountable for these expenditures of taxpayers' money? Where is this money going? Why are the children still not getting their support? It appears that this money is used to keep the enforcement agencies in business—to keep the bureau personnel employed—not necessarily to collect support for children.

A further analysis of the Report shows that the reported figures indicate a good collection record for non-AFDC cases. However, it must be borne in mind that, in numerous cases, child support is paid through the system from the original court order. Many non-custodians pay regularly, so no enforcement mechansims need be employed. Usually, the only expenditure in these cases is the check-processing cost, covered by the processing fee, which is generally deducted from the children's money. These "collections" are counted as non-AFDC collections for reporting purposes. It is in other non-AFDC cases, where the court orders direct payments from the obligor to the obligee, that the greatest problem arises. These families are the hardest hit because most of the programs financially disqualify them from enforcement services. The Organization for the Enforcement of Child Support suggests that the entire program was mistitled and might have been titled, "The Office of State Support Enforcement."

ABDICATING RESPONSIBILITIES

It has long been common knowledge that a parent who does not wish to pay support does not have to. It is easy for a parent who is in arrears to make a rather lame excuse in front of a lenient judge and be let off with a warning. Some of the more affluent obligors will hire high-priced lawyers to avoid paying child support and, ironically, will sometimes pay fees in excess of the arrearages. Many non-custodians keep moving one step ahead of the law or flee to more liberal States and continue their luxurious lifestyles while their children exist in poverty. In this country it is very easy to transfer one's responsibilities to the taxpayers.

The saddest and most expensive cases of all are those in which the care of the child is relegated completely to the State. Both parents have completely abandoned the child or for some reason the single parent has had to give up the child either voluntarily or by court order. The State must then maintain the child in a foster home at considerably more expense than ordinary public assistance. Some effort should be made to collect child support from both absent parents in those cases where both are capable of paying support.

So long as the laws remain deficient and so long as the laws which are on the books are unenforced, this problem will continue to grow at the expense of the taxpayers.

How frightening it is to know that in our land a court order can be disregarded with impunity and, in some cases, court orders cannot even be obtained because of statutes of limitations. Even with court orders, there is the formidable task of locating absent parents who keep on the move; the sometimes impossible onus of service of process; and the Gordian Knot of interstate procedures.

PRIOR LEGISLATIVE ACTION

Congress has demonstrated its concern with these problems over the years by creating innovative programs. Our organization sincerely appreciates all of those fine efforts.

The Uniform Reciprocal Enforcement of Support Act (URESA) and Title IV-D provided the impetus necessary to begin the improvement process. The Tax Refund Offset Program (TROP), IRS Full Collection Process, Unemployment Intercept, Title XIX, Federal Parent Locator Service, Garnishment of Military Pay and the new Allotment Program are remarkable legislative changes.

Our Federal legislators are to be commended for passing such progressive laws. It remains for the Executive Branch and the States to fully implement them.

AFFIRMATIVE ACTION BY THE ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT

1. Since the beginning of the Organization for the Enforcement of Child Support in 1979, the members have consistently pursued a course of self-education and are actively dispensing child support information to the public. To our knowledge, there is no similar available resource in the public sector.

We have found it necessary to plan and present a series of self-help workshops wherein people are taught how to represent themselves In Proper Person. There is an old saying that goes, "He who represents himself in court has a fool for a lawyer." In child support cases, there is no alternative. The high cost of legal representation often overruns the gains realized from the collection arrears.

2. Through an effective public relations program, OECS has maintained a quality relationship with Federal, State, and local officials in the three branches of government and acts as liaison between those officials and the general public.

3. We have undertaken, on a small scale, an educational program in the judiciary.

4. The primary thrust of our legislative efforts on the State level have focused on bringing Maryland into compliance with Title IV-D regulations. We do, however, have other legislative priorities.

5. Our organization has assisted in the formation of organizational chapters in other States. We also maintain open exchanges of information by communicating with similar organizations nationwide.

6. We have begun a research survey in several Maryland jurisdictions to gather information about obtaining enforcement services, denial of enforcement services, the kinds of services offered, and availability of applications for enforcement services. With some funding, we would be able to expand this research to include all of Maryland and then progress on to the same kind of survey across the country.

SPECIFIC PROBLEMS WITHIN THE SYSTEM

1. Funding is a major consideration.

2. Although the goal of URESA is uniform enforcement across State lines, States have adopted various amendments to it or dropped whole sections from the version that was first adopted. In many cases, avenues for prosecution are closed because of the differences in the laws of each State. Some States do not recognize arrearages already due to URESA petitions.

3. Title IV-D, as originally passed by Congress, provides equal enforcement services for all children. The law also provides a penalty for noncompliance with its regulations. After several audits proved general noncompliance nationally, the Office of Child Support Enforcement softened the regulations to allow States to be in "substantial compliance" rather than impose the penalty. Furthermore, the Office of Child Support Enforcement does not acknowledge failure to provide non-AFDC services as a point to be considered in applying the penalty. Although the IV-D Program has been in effect for eight years, no State has yet been asessed the 5 percent penalty.

4. Due to State laws and departmental policies and regulations, too many people are denied enforcement services. Many people are being denied even the availability of an application form. When there are no applications on file, those cases are not accounted for in the Federal audits.

5. Collection fees are being deducted from the children's money. Since support orders are usually unreasonably low to start with, any amount deducted is a further cut in the children's standard of living. If collection services are required due to an

absent parent's failure to pay, then the obligor should be required to assume the responsibility for the fees.

6. Some inconsistencies in Federal laws add to the confusion and permit large segments of the population to be bypassed for enforcement services. As an example, TROP was passed and implemented for AFDC cases only, while the IRS Full Collection Process is supposed to be available to everyone. However, upon closer investigation, the Full Collection Process is only available to the State agencies, and when a State denies services to whole classes of people based upon income limitations or based upon receipt of public assistance, then the Full Collection Process is denied those people.

SUGGESTED SOLUTIONS

1. Some funding can be obtained by fees collected for services. However, it must be stressed that collection fees should not be paid from monies due to the children. All fees should be collected from the obligor.
2. Full compliance with Title IV-D would be cost effective because, as money begins to flow in to the children, there would be an immediate decline of the influx of public assistance applications.
3. Require the Federal Office of Child Support Enforcement to exercise its rights to penalize the States for noncompliance with IV-D regulations.
4. Require Social Security to provide current information on absent parents expediently.
5. Require conformity in URESA laws among States; require conformity in the program of services provided in jurisdictions within each State.
6. Have the IV-A language in CFR 45 § 231.1(d) also included in IV-D, causing the child abuse and neglect laws to include non-payment of support.
7. If a family must receive governmental support payments because of non-payment of support, require the person who has not paid forego his/her Social Security benefits to repay the government.
8. Have the States report to the Federal government that part of their caseload for which no money has been expended or collected. These data should be included in the Annual Report to Congress.
9. Establish a reporting system whereby all periodic payments, such as Workmen's Compensation, Retirement, Pensions, Social Security, etc., would be reported to the IRS and the local support enforcement agencies for purposes of garnishments, lines, etc.
10. Require the IRS to assume all child support collections. All child support could be taken from wages in the same manner that is in use for collecting income taxes.

FUTURE LEGISLATIVE ACTION

H.R 216

The problem of child support enforcement is one of epidemic proportions. It has been an insidious specter overshadowing the youth of our nation. With the increase of the national child support enforcement caseload that is caused by the unwillingness of many absent parents to accept their legal and moral responsibilities for assistance, our welfare rolls swell with those who have succumbed to the frustration of trying to collect their support through a system that, at best, is till ineffective. Inequities at the State level have created blockages within the system which, through a "domino" effect, reach the custodian, who must then bear not only his or her own frustrations but those of the system as well.

It has fallen upon Congress to legislate nationwide equity for the system. New avenues must be opened whereby both the system and the custodians may avail themselves of competent services to ensure effective collection of their debts.

One bill that addresses one of those avenues is HB 216, sponsored by Congressman Clarence D. Long, which has the purpose of extending the Tax Refund Offset Program to non-AFDC families. This service, currently available to AFDC recipients, would be a means to quell the sharp increase in welfare rolls. Since a large proportion of the single parent households are bordering on poverty, the money gained may well prevent them from slipping over the poverty line onto public assistance with a resulting traumatic loss of self respect. It has been statistically proven that the deciding factor in the eligibility of 86 percent of AFDC cases was lack of child support. In other words, a decent wage and consistent child support would remove that family from the welfare rolls, resulting in a far greater savings of taxpayers' money than the amount that would be spent to implement the program.

As the law stands now, TROP can be utilized by the States to collect from parents who are in arrears to satisfy debts accrued by assignment of support rights to those States. Many States have their own Tax Intercept programs for State taxes, as well. Though, in a sense, the children are surviving, they do not benefit directly from those collections and the stigma of poverty remains. However, the non-AFDC family does not even have the recourse of attempting to collect on the delinquent parent's tax refund. The custodian must struggle to make ends meet in a trying economy and may even have to work multiple jobs to make up the gap that the lack of child support leaves. It is small wonder that so many families slip over the poverty line so easily to the promise of a steady income when the toll is the erosion of one's pride and self respect. Congressman Long's bill will extend a service to those children who will benefit directly from the collection of arrears. The money may come at a time of great need, whether it be for clothing or medical expenses or to pay the mortgage on the house to keep a roof over their heads. It would retain the pride of family self reliance that has made our nation strong.

Some Members of Congress have thought that HR 216 is unnecessary because we already have the IRS Full Collection Process. However, the Full Collection Process is so structured that its application is prohibitive. The requirements to obtain the Full Collection Process are so costly ($122.50 per collection, as compared to $17 per collection for TROP) and so onerous that it is seldom used. In addition, the IRS Full Collection Process is available only to the State agencies. When State services are restricted by State laws and procedures, according to income limitations and/or receipt of AFDC, then the Full Collection Process becomes unavailable to most children. Please see the attached information from the Federal Office of Child Support Enforcement.

There will be many other bills pertaining to child support enforcement placed before the various committees of Congress. There is little doubt that most, if not all of them will go far to tighten loopholes against those who would shirk their moral obligations and ease the burden on those children who are caught up in the complications of their parents' divorce. We only ask that you weigh these documents carefully for these words will shape the future world of many of America's youth, and their future is our future, too.

H.R. 1014

The Organization for the Enforcement of Child Support welcomes the introduction of H.R. 1014 which would establish a bipartisan national commission to study ways of improving child suport enforcement. The issues which the commission will investigate include areas that have always been a major concern to OECS.

Section 3(b)(1) requires the commission to investigate and make recommendations on "the Federal role in the collection of child support payments, including examination of Federal-State formula . . ." OECS has long recognized a problem with the current Federal plan for contribution to State support collection programs. Under the current program there are built-in financial incentives for the States to collect AFDC money. The State will be given 70 percent of its administrative costs, will recoup the money it has expended for AFDC collections, and the Federal government will also give the States 12 percent of the collection. On the other hand there is absolutely no financial incentive for the State to provide non-AFDC collection services. Rather there is a disincentive since the State must pay 30 percent of the administration costs for providing support enforcement services in non-AFDC cases.

The current formula for Federal/State involvement in child support enforcement is a major component in Federal financial participation that gives little consideration to the cost avoidance benefits of increased non-AFDC work. Because there is an immediate financial incentive to prioritize AFDC work, most State programs concentrate their efforts on those cases. The formula ignores the long range benefits of collecting support for non-welfare families.

Case prioritization.—The Office of Child Support Enforcement has proposed federal regulations that permit States to prioritize certain types of cases, even though this appears to be in direct conflict with Title IV–D. Title IV–D requires that all children be provided support enforcement services. Had Congress intended to allow States to prioritize cases based on the cost-effectiveness of each collection, it surely would have included this requirement in Title IV–D. Additionally, the proposed regulations on case prioritization do not require that the States make their prioritization scheme public information. The State may refuse to inform a person why his/her case is of low priority.

Some States have already begun procedures for prioritization of child support cases. Using such procedures, these States are choosing to pursue the easiest cases with the highest probability of producing the greatest collection totals, disregarding the more difficult cases involving smaller amounts of money. It must be pointed out that every child should obtain his support whether or not it will produce substantial sums of money for the State or demonstrate that the State has an improved collection rate for statistical purposes. Collection records, as reported, do not provide food, shelter, clothing, or medical care for children whose cases are disregarded.

Maryland, like other States, has a Statute of Limitations for establishment of paternity. Should the State decide that a paternity case is of low priority and that case is disregarded, the Statute of Limitations could run and that child would have forever lost the opportunity for paternity establishment.

IRS method.—The AFDC vs non-AFDC controversy could be eliminated by having all child support handled by the IRS in the same manner as taxes are handled.

Taxes are "pay-as-you-go." Kids are "pay-as-you-go," also. Kids can't be put in a catatonic state until the parent decides he will pay, if he's going to pay at all. The government knows the most effective and least costly way to collect money is to withhold it from the wages. We use it to support the government—why not use it to support the kids?

H.R. 2374 (also title V of S. 888 and H.R. 2090)

Although OECS acknowledges the concept of H.R. 2090 and S. 888 in their entirety, restrictions contained in the By-Laws of the Organization prevent OECS from comment or concern with those parts of these bills not pertaining to child support enforcement. Therefore, the following testimony will confine itself to the bill or sections of bills directly relating to such enforcement techniques and policy.

We are happy to find that the sponsors of all three bills see many of the deficiencies in the current child support enforcement program and wish to make improvements in the system. We thank each sponsor for the commitments made on behalf of the children of our nation.

The purpose of the program is well-stated and strengthens the IV-D language to emphasize that enforcement services are assured for non-AFDC children, as well as those receiving AFDC. However, the language, "living with one parent," is too restrictive since some children entitled to child support live with other custodians, such as grandparents, other relatives, or foster parents. We suggest the deletion of the phrase, "living with one parent."

It is of utmost importance that the Tax Refund Offset Program be extended to non-AFDC families. Since TROP has been highly successful in its operations for public assistance cases, it should yield a good portion of income to non-public assistance families who are owed arrearages as well.

The establishment and maintenance of a child support Clearinghouse, as described in this bill, would be a great help to the Federal government and will assist all States in interstate enforcement cases. However, in Sec. 4(a)(10)(A) inclusion of all support orders would create excess paperwork and additional staffing and office requirements. It would also penalize the obligor or obligee in non-problematic cases by imposing the payment of enforcement fees (where the obligor pays automatically and no problem has arisen and enforcement services are not required). We suggest that this section should only apply to cases where a problem has arisen and that cases in which the obligor pays regularly should be exempted from inclusion in this plan. Sec. 4(a)(10)(1) seems to be modeled after successful programs already used in some States and would contribute to the ease of enforcement proceedings.

In Sec. 5(a)(3)(20) this bill impacts on the very severe problem of providing medical care for children. However, OECS suggests that such health insurance should not be restricted to employment-related policies, but could also include other forms of privately-paid insurance. Generally, insurers' costs are no higher when addition children to a family plan policy.

Sec. 5 (21), (22), (23), and (24) provide strong measures for improvements. However, we stress the importance of assuring that, without doubt, these programs will be available to non-AFDC families. (25)(A) should be amended to read "voluntary wage assignment for payment of support obligations at the onset of the order and mandatory wage assignment when an arrearage problem has arisen."

Sec. 6 deletes objectionable language in the bankruptcy law which has been restrictive. By striking out, "in connection with a separation agreement, divorce decree, or property settlement agreement," the law will prohibit the discharge of any child support obligation in bankruptcy.

The Organization for the Enforcement of Child Support supports this bill with the foregoing suggested amendments.

DRAFT OF CHILD SUPPORT ENFORCEMENT PROPOSAL BY HON. CARROLL A. CAMPBELL, JR.

Since this proposal was introduced in the House of Representatives just a few days ago and only a summary was available for advance review, the Organization for the Enforcement of Child Support is submitting written comments only on the draft. After we have reviewed the printed bill, we may mail in an amended testimony.

Section 2

The purpose of this program should not be to assess need, but to display entitlement. All children are "entitled" to child support. The program should be broad enough to encompass the entire spectrum of possibilities. Several simple solutions may offer more relief than a single complicated one. The end would be the same, but the political and social paths would be shorter. It is recommended that the "Purpose" read:

"The purpose of the program . . . is to assure that all children in the United States, entitled to child support, be afforded equal services in the assistance of securing that financial support from their parents. Furthermore, this service shall not be restricted by the economic status of their custodial parents or guardians."

It follows that if the collection of child support is secure, only a small segment of these families would become a burden on taxpayers.

Section 3

Unfortunately this section does not extend coverage to a very significant segment of the constituency for child support enforcement services. It is those people who choose not to resort to AFDC payments, but eke out an existence in a trying economy in order to maintain their pride and self respect. These individuals are to be commended. However, commendations do not pay the rent or put food on the table. An incentive system must be devised to create interest in non-AFDC collections and to encourage the States to initiate programs in this sector. It is inequitable to dangle a carrot from one end of the stick and an onion from the other.

Section 4

It is true that States could limit their non-AFDC activities to arrearages accrued after application to seek support by TROP. However, these limitations should not be strongly adhered to. In many cases, the certifiable arrearages extend far into the prior history of the case. It is not common practice for private collection agencies to disregard that part of a debt accumulated prior to contract. Therefore, the State should strive for the entire sum. The children are as much entitled to all the arearages as they are to all future collections.

Section 5

(1) "Withholding from Wages" should be broadened to "Withholding from Income." Often an obligor has no real "wages" per se but has an investment income or a business interest that could be construed as income but not salary. California Statute CC4701-1980 gives an excellent criteria for determination of income and could be used as a basis for regulations within this program.

Maryland has a 30-day past due period. It is possible that a shorter period could be mandated. Allowing State option in this area may be opening the way for further inequities in the system, thereby slowing enforcement processes.

(2) It is imperative that any Judicial refinement, quasi or real, be made available to both AFDC and non-AFDC. Mediation boards, family courts, masters' panels, or any other form of arbitration could be beneficial in reducing caseloads by dispelling controversy at the onset. This plan would free higher judicial procedures for more complicated cases.

(3) A Tax Refund Intercept Program for each State would be ideal. Perhaps all States will follow Maryland's lead. The non-AFDC phase of Maryland's TRIP will be implemented in early September.

(4) Rules for enforcing liens against properties and material possessions should follow IRS criteria in order to create equity from State to State.

(5) Legislation was introduced in Maryland in 1981 to initiate a program of reporting past due support to credit agencies. Although it failed, it illustrated that the need was apparent. Child support is a debt that should be treated as any other debt. It is a travesty that some individuals can lose their credit rating for not paying a few hundred dollars to a loan company while there are parents who owe thousands and have [illegible] credit rating.

(6) Although there is a greater availability of employment-related health programs, medical support should not be limited to these narrow bands. Self-employed individuals often participate in private plans at the exclusion of the children of their broken marriage. Creating an all-encompassing requirement of medical support in divorce decress would carry this segment of the program to a successful conclusion.

Section 6

Clearinghouses and central registries could possibly be created out of a computer network among the various State child support agencies. Equitable URESA enforcement would become a reality and many AFDC cases could be terminated. This would be a reasonable investment, as possible more than that would be saved by the reduction of AFDC expenditures.

[EXHIBIT 1]

A KID'S EYE VIEW

(By Elaine M. Fromm)

The questions began at about the age of four. He asked, "Mommy, how come we don't have a daddy like the other kids do?" My response to him was, "You do have a daddy. He just lives somewhere else." Some time later the queries began again, but what more could I say? Could I tell him that his daddy ran away and apparently didn't care about him? Never would I let this child hear that he and his siblings were unloved and unwanted.

As the years went by, he and his brothers and sisters had more questions from time to time. "What does our daddy look like?"; "Why doesn't he come to see us?"; "Why can't we go to see him?"; "Why are we so poor?"; "Why do you have to go to work all the time?"

They studied his photo. They sought that face on every man in every public place.

The questions about their father ceased after his sister had pleaded, "Can't you buy us a new daddy?" and her brothers had given her the news that the kid next door would share her daddy with them all.

"I hate wearing these old patched clothes to school", he said, "can't we buy some new ones?" He ached for normalcy. I ached with the inability to provide normalcy. Adequate food, shelter, clothing, and medical care were financially unattainable. He and his brothers and sister walked in the snow to school wearing tennis shoes with holes in them and pants with patches on the patches. They never knew that I had stolen food for the table. They did know the shock of having their family split up among friends when their mother could not find affordable housing; and the shame, when it was finally found, of housing with a slum lord. They tolerated the humiliation of peer ridicule at their material deficiencies.

Soon he was ten and got his first job. It was gardening work and he was hired because he was big for his age and looked older. He brought home a couple of dollars each Saturday. With the money he bought shoes and pants. Then came another opportunity—a newspaper route! Now he was making lots of money. Now he could get a bike! We shopped at Goodwill and he bought his bike.

His sisters and brothers followed in his footsteps.

They took jobs in gas stations and retaurants and worked long, hard hours to buy their clothes and school supplies. They could buy a few luxuries now, and help to fill the family refrigerator. But they had little time for teen-age social lives or after-school activities. Finally, I told them about their father's desertion and my unfruitful attempt to collect child support.

Twenty years passed since that first question; the kids are grown. In their childhood they knew the suffering of abandonment and non-support; in their maturity they have learned the truth about governmental negligence. Now the questions are, "How could the govenment, whose purpose is to protect all citizens, allow these atrocities and what can we do to rectify the situation?"

Though his life has long since changed dramatically, he will not forget the horrors of his childhood. In his manhood, he and his siblings are making their own contributions to the Organization for the Enforcement of Child Support and to society.

[Exhibit 2]

Department of Health and Human Services,
Office of Child Support Enforcement,
Rockville, Md., December 16, 1982.

Ms. Elaine M. Fromm,
Reisterstown, Md.

Dear Ms. Fromm: This is in response to your letter of September 30, concerning the Full Collection Process and the Tax Refund Offset Program. Please accept my apology for the delay in responding.

The IRS Full Collection Process has been available for child support enforcement (CSE) since August 1, 1975, but was initially used to collect support owed on behalf of individuals receiving Aid to Families with Dependent Children (AFDC). The Social Security Disability Amendments of 1980, Public Law 96-265, contained a provision for the use of IRS to collect child support for non-AFDC families which was effective on July 1, 1980. Only the State CSE agencies have the authority under Section 402 of Public Law 96-265, to use the IRS Full Collection Process to collect child support. Enclosed are two charts which list IRS collection statistics for fiscal years 1980 and 1981.

The IRS Tax Refund Offset Program was effectuated as a result of the Omnibus Budget Reconciliation Act of 1981. Section 2331 of Public Law 97-35 of the Act provides for the collection of delinquent child and spousal support by implementing an offset process against Federal income tax refunds. This process may be used only to collect support owed on behalf of individuals receiving AFDC and cases may be submitted only by the State CSE agency. The program was established October 1, 1981. A fee of $17 per offset was paid to IRS, for the offsets occurring in 1982. Approximately $169,000,000 had been collected through the month of August based on the submittal of 265,508 cases.

We appreciate your interest in this matter. Additional information is enclosed to answer any other questions that you may have about either of the programs. Please feel free to contact our office if you need clarification or additional information.

Sincerely yours,

Fred Schutzman
(For Deputy Director,
Office of Child Support Enforcement).

Mrs. Kennelly. We will do the panel and then come back with questions.

Just because it is only two of us sitting here, everything is being taken down and will be read by the committee before we have markup.

The next witness is Bettianne Welch, and you are accompanied by Gerald A. Cannizzaro.

STATEMENT OF BETTIANNE WELCH, PRESIDENT AND COFOUNDER, FOCUS [FOR OUR CHILDREN'S UNPAID SUPPORT] ACCOMPANIED BY GERALD A. CANNIZZARO, VICE PRESIDENT AND COFOUNDER

Ms. Welch. This has been an exciting morning.

We were delighted that the Secretary was here. It was very exciting to be here at a time when someone is finally saying we hear your problem; we are going to do something about it. And we are glad we are here today.

I am Bettianne Welch, and I am founder and president of FOCUS [For Our Children's Unpaid Support].

We are a group founded in July 1981 in Virginia.

By 1982, July, we had a mandatory wage assignment bill through in the State of Virginia. We do believe in it.

I am currently an advisory member of the interstate child support enforcement study, being conducted by the Center for Human Studies, under a grant from the Social Security Administration.

FOCUS appreciates this opportunity to appear today in regard to the Child Support Improvement Act of 1983. We appreciate the opportunity to be here.

Gerald Cannizzaro is with me. He is cofounder and vice president of the FOCUS.

FOCUS is founded on the premise that all children are entitled to the financial support necessary to meet their basic needs. This support is the moral and legal responsibility of both parents.

As you are aware, an alarming number of parents choose not to honor this responsibility. Instead of two parents providing support, the custodial parent is carrying the entire burden. Most often, the custodial parent is making the lesser salary, and the burden becomes unmanageable.

At this point, outside assistance must be sought, in the form of food stamps, subsidized housing, aid to dependent children and student aid for education. The taxpayer, in fact, picks up the burden of the parent who is delinquent in the support of its child. The most recent survey by the U.S. Census Bureau—June 1983—estimated $4 billion per year in delinquent support has not been collected.

We endorse any measures that will establish an improved national system of monitoring and collecting child support to be established.

We in FOCUS are personally aware of the weaknesses in the present system of enforcement and collection of child support. The statistics that are being presented to your committee overwhelmingly illustrate that unpaid child support is a problem of a national magnitude.

Statistics often do not show us where the problems lie; only that they exist. Our personal experiences with child support collection may be helpful to you. For illustration, I will present, in brief sketches, three real cases.

I would like to present these two cases that we are aware of:

One, a custodial parent has experienced the phenomenon known to those of us in the trenches as State-hopping. She has attempted collection of child support in five States in 6 years, with very little success. The procedure for obtaining a judgment in each new State is so lengthy that relocation occurs before collection. The new State will, of course, need to establish its own order for collection, and often waives prior arrearages. This has proven to be an effective method for the delinquent parent to avoid paying support.

Two, in another case familiar to our group, the custodial parent has attempted collection from a self-employed former spouse. Wages cannot be attached and true income cannot be proven. She has withdrawn from the child support system because it does not adequately address these problems. She is now grateful for the small amounts of support which are sporadically sent directly to her. She, as most custodial parents, makes no attempt to budget in her child support payments as a regular source of income. She receives each payment as a bonus.

Three, since 1979, the custodial parent of three children has been actively pursuing her case within the URESA system. She has received three payments to date. She holds five support orders, has had thousands of dollars in arrearages held in abeyance, and has had the original support award reduced from $650 per month for three children to $400 per month to $300 per month and most recently to $100 per month.

To date, she has employed the intervention of two Members of Congress, and the gratis intervention of two private attorneys. As stated, her three children have received three payments in 4 years. The documents in this latter case are available to the committee at its request.

These cases vividly illustrate the inability of the current system to deal effectively with specific problems: Self-employed noncustodial parents, the actual collection of support orders; and the State-hopping delinquent parent.

Most custodial parents cannot afford private attorneys; they must depend on the child support system to obtain their payments. The pursuit of their cases within the system becomes frustrating and time-consuming. With support officers handling 600–800 cases, and this is a minimum, and with the overcrowded court dockets, it is no wonder that these cases become a lengthy and often fruitless pursuit. It is also no wonder that many parents are forced to drop out of the system in despair. These families are no longer even a part of the national statistics on delinquent child support. There are large cracks in the present system. Unfortunately, children are the ones falling down the cracks.

At this point, Gerald Cannizzaro will continue.

Mr. CANNIZZARO. Thank you.

As previously stated, we believe the Child Support Enforcement Act is a very positive step in strengthening the effectiveness of our national child support collection efforts. However, the experience of our members has shown us that State jurisdictions do not always cooperate in collecting or enforcing child support awards.

We have found that a lack of uniformity in State laws and judicial rulings lends itself to various interpretations of a child's basic rights and needs. Therefore, in many instances it is most difficult, if not impossible, for a spouse to collect child support payments when the nonpaying spouse moves from State to State.

The act, as now written, will be most beneficial to those child support collection efforts based within an individual State. However, it will not solve the collection problems of thousands of spouses whose partners willingly move from State to State avoiding their child support obligations.

In addition, if spouses who are collecting child support with the assistance of a State agency move to another State, they create a nightmare of problems. Their new State of residency may delay or reduce their child support payments due to differences in its child support laws or in their collection agency's effectiveness and procedures.

FOCUS believes that the only way to resolve the frustrating problems caused by interstate noncooperation and legal differences is to make it a Federal offense to willingly not pay or avoid basic child support payments. Making the failure to pay child support a Federal offense would greatly help to eliminate the millions of dollars of lost support payments and, subsequent Federal assistance money, that now escapes interstate collection loopholes.

Therefore, we urge the following recommendations be adopted as part of the Child Support Enforcement Act you are considering here today:

One, establish a minimum child subsistence payment level which must be paid to every custodial spouse for each dependent child regardless of parental, welfare, or residency status. This payment should be an amount adequate to supply the dependent child with its basic needs—that is, adequate food, clothing, education, and medical aid, et cetera. The creation of such a payment level would act as a standard for State courts to award and defend minimum child support payments.

The creation of this minimum payment would not deny the requesting spouse from seeking a higher support award. It would, however, disallow any reductions below this minimum at a later date. It would also provide the respective attorneys with a financial obligation that must be resolved prior to the final settlement of a child-related divorce or marital separation.

We further recommend that this child subsistence payment should be indexed on an annual basis according to the changes in the National Consumer Price Index. The Federal Government already has the adequate statistical resources and personnel to establish this minimum subsistence payment.

Two, as previously stated, we believe that the Federal Government should make it a Federal offense to deliberately avoid paying child support. This offense should be punishable by a substantial fine, levied and enforced by the Federal courts and revenue collection agencies. It is FOCUS' belief that the creation of a Federal fine will be greatly instrumental in motivating those chronic nonpayers to recognize their parental responsibility.

Three, we believe the Federal Government should offer its assistance and resources in helping State jurisdictions to attach both wages and property by honoring their valid support orders. This Federal assistance would greatly help the State agencies in collecting child support payments due from nonpaying spouses who hop from State to State to avoid their parental obligations. In addition, the use of Federal resources coupled with a Federal fine would make it more difficult for those nonpaying, self-employed spouses to avoid their support responsibilities.

We understand that there will be expenses incurred by the Federal Government in providing our recommended assistance. However, they would be more than offset by reductions in the amount of Federal assistance payments now being paid to nonsupport receiving spouses.

If the Federal Government does seek direct reimbursement for its services, we urge that the nonpaying spouse be charged and not the child-supporting one. The burdens and frustration responsible spouses now endure in trying to raise their children with their own resources is ample reimbursement for any Federal assistance.

In conclusion, we ask the Federal Government to enforce the payment of child support awards as aggressively as private industry pursues delinquent financial obligations for automobiles, homes, and credit cards. The child support collection industry cannot remain a vehicle for employing people who only comfort those in misery. It must be an industry which becomes effective in ending the poverty and uncertainty now facing responsible spouses and their dependent children.

In behalf of the millions of children who are not receiving support payments, we ask you adopt the recommendations we have made today.

Mrs. KENNELLY. Thank you.

Is Virginia Ingle here?

Ms. INGLE. Yes, I am.

STATEMENT OF VIRGINIA INGLE, ADVOCATE, SPLIT, INC.

Ms. INGLE. Having been involved with the problems of uncollected child support since 1971 and being responsible for the three-payment wage deductions in New York State, we see the financial impact and the severe toll it exacts in human misery. Here are some of SPLIT'S [Separated Persons Living in Transition, Inc.] recommendations to improve the system to collect child support.

The original intent of Parent Locator was a sincere effort to insure collection for maintenance and support for our Nation's future: our children. The reality of this legislative act is another overwhelming obstacle in a frustrating, no-win situation for mothers, and a financial windfall for bureaucratic administrators and local government, which result in the escalating poverty and deprivation of women and children as demonstrated in the 1980 census.

Current incentive awards encourage local government to delay and ignore enforcing contractual agreements or judicial stipulations by mandating assignments of support that result in lower court order, usually to the amount of local governments ADC share, locking a family into poverty.

This reduced collected amount will be bountied by Federal Government 12 percent, who also will pay the 85 percent administrative costs of the CSEB and insuring her poverty.

By mandatory assignment of support, local social services do not have to evaluate or investigate his ability or capability to pay, but are free to negotiate and offer a bargain-basement price to him and effectually void her rights of due process.

I have been present in court when a woman on social services, attempting to enforce her contract and enlighten the court as to his ability to pay, was informed by the judge, "You are just a witness to this action, not an involved party." The judge then proceeded to reduce her support, and directed payment to social services. Since when does the humiliation of one's family being locked into social services make you a noninvolved party?

We often see the county attorney in the courtroom who is interested in pursuing the county's portion of ADC expenditure negotiate over her head, you know, as to what he will be willing to pay, even though she has a surviving contractual agreement and a Government agency is not supposed to put itself beyond a contractual agreement between two parties.

Perhaps the most important aspect of nonsupport is a recognition of the serious nature of the problem. If half of the children born in the United States will not live in a home with both parents until emancipation is the end result, one-half of our country's children will be raised in poverty?

Social services is a complex and economically lucrative industry that is protected and insulated by rights of privacy and incomprehensible jargon. Incomplete statistics are meaningless public relations. Suffolk County is the best collection county in New York, collecting only 11.4 percent of its capability of modified—reduced—orders, at enormous cost to taxpayers.

But the real costs are what we are doing to our future by impoverishing our Nation's youth:

One, what is needed is a countrywide mandatory wage deduction for employed parents enforcing original contractual and judicial orders upon separation or divorce with direct payment to custodial parents and following to future employers by social security number.

Two, payment through estimated income tax for self-employed.

Three, Federal liens against property and estate of delinquent parents.

Four, standard realistic guidelines for support of children with direct payment subsidy by Federal Government to custodial parent creating a cushion when support cannot be collected and insuring that children will not be deprived of food, clothing, shelter, and medical care.

Five, a Government funding formula which does not encourage benefiting itself and a dependence on social services. Possibly a bounty on collections which are above ADC standards.

We also have additional recommendations. Important to a successful program of child support collection would be a totally nationwide uniformed approach under the department of law, not under the department of social services, because it is beneficial to them to create and enlarge themselves.

Through our past experiences we have found that having the department of social services administer the collection is a very definite conflict of interest. At the local level, successful collection support results in diminishing the numbers who need dollars and the accompanying services of the welfare department.

A lessened client load in ADC cases would mean a declining loss in Federal resources. It is of benefit to the local government to encourage people to be locked into social services, plus a loss of the proportion of administrative costs.

If local child support enforcement agencies seek only to collect a local portion of the grant in court procedures, as we have seen, the end result is a continued growth upon dependents, on welfare for single-parent households, and the inability of those families to ever become free of the social services system.

The reason for this fact that nationally women make 69 cents for every dollar made by her male counterpart, the end result is poverty living for innocent children.

The development of an automated system for paper preparation intake—we see in our courts it takes 6 weeks to prepare a petition—our petitions are one or two sentences. OK, and it takes 8 weeks to get through.

You talk about a clearinghouse system. It takes 8 weeks from the time he makes payment to the time she receives payment.

That money could possibly be invested in interest-bearing accounts and possibly offset initially some of your problems.

Our country alone collects 11 percent of its modified orders, was capable of modestly invested, collecting $70,000 in revenue, which it did not do.

We believe in the creation of resolution and mediations and for establishing support agreements involving both parties prior to or after a divorce. This will reduce the adversary system and prevent numerous delay and court appearances. This would be under a department of law rather than a department of social services, and we believe in using the criminal procedures to prosecute the nonpayment of child support.

In New York, there exists a hundred-year-old law that we have encouraged our district attorney, who is the only DA in the State of New York to use it; it was created 100 years ago and has never been enforced.

We believe that all arrears should be converted to judgment upon due date. This eliminates additional paperwork and court procedures. Abolish the fixing and wiping away of arrears unless application to modify preexisting nonsupport petitions.

All support orders are to be retroactive to the time of filing, not the date of hearing. We have had hearings that took place 11 months after the petition has been filed because of the numerous delays.

We believe temporary support orders should be issued with any adjournments or also with orders of protection. We believe in the greater use of the sequestration process and administrative evaluation and investigation of financial assets with the power to subpena and make recommendations to the court with credit checks on a defendant as a fair credit ruling.

We believe supplying notification of rights under law as to the enforcement of contract to plaintiff where there is a separation agreement.

Semiannual announced roundups and jailings of violators with media coverage and publishing of names, addresses, and occupations, as is done in California.

We had occasion to do this in our county. Nobody even went into jail. One man remained an hour and was capable of getting $8,000 when the banks were closed.

Expanding the IRS program to include collections for all unpaid child support where the family receives social services, very often the collection of additional funds means a family's freedom from dependence on the welfare system.

These suggestions would mean improvement in the quality of life for children and lessen the marital breakup and the monetary burdens of supporting a welfare system for the taxpayer.

I have some other things that I would like to comment on that were discussed this morning, if I have time.

There seems to be a great dependence upon the State's capability of administering the support enforcement program. I can tell you what exists in my county. We live approximately 30 minutes from New York City. If a petition is filed in Suffolk County, to be heard in New York City courts, the petition will be taken, and there is no knowledge upon the part of child support enforcement or probation services that a non-ADC parent is required to have personal service. There will be no service upon that petitioner. She will wait 11 months to get into a New York City court.

The judge will then adjourn it, because he will have notice that there has been no service.

He will create another court date, and then eventually dismiss the petition, because there has been no service.

I have notified our probation department, and they said that they do not have the capability to collect money to make service; so it is a futile effort that you are going through, 1 year's action, waiting, hoping, and it is never going to get anywhere, but be dismissed; then usually a letter back to the woman as to your information as to location was incorrect, and I really don't think that—I think that this has to be approached on a Federal level, and particularly to go after the parents who are self-employed.

[Attachments to the statement follow:]

SPECIFIC RECOMMENDATIONS OF SEPARATED PERSONS LIVING IN TRANSITION, INC.

1. Important to a successful program of child support collection would be a totally nationwide uniform approach to the collection of support under a department of law. Through our past experiences, we have found that having the Department of Social Service Administer the Collection is very definitely a conflict of interest. Unfortunately at a local level to successfully collect support results in diminishing the numbers who need the dollars and the accompanying services of the welfare department. A lessened client load means in A.F.D.C. cases a 75 percent loss in revenues from state and federal sources, plus the loss of a portion of administrative cost. If the local Child Support Enforcement Agency seeks to collect only the local portion of the grant in court procedures, and we have seen this to be the case, the end result is a continued growth of dependence upon welfare for single parent headed households and the inability of those family's to ever become free of the social services system. The reason for this is the fact that nationally women make 59 cents for every dollar made by her male counterpart. The end result is poverty level living for countless innocent children.
2. The development of an automated system for paper preparation, intake, collection, and enforcement similar to a computerized system existing in San Luis Obispo, California. This will eliminate paper delay, error, and allow staff to upgrade investigative and financial evaluation skills and techniques.
3. The creation of resolution and mediation centers for establishing support agreement involving both parties prior to or after a divorce. This will reduce the adversary system and prevent numerous court appearances.
4. Using criminal procedures to prosecute the non-payment of child support.
5. All arrears to be converted to judgements upon due date. This eliminates additional paper work and court procedures.
6. Abolish the fixing and wiping away of arrears unless an application to modify pre-exists a non-support petition.
7. All support orders are to be retroactive to time of filing, not the date of the hearing.
8. Temporary support orders shall be issued with any adjournments or also with Orders of Protection.
9. Greater use of sequestration processes.
10. An administrative evaluation and investigation of financial assets, with power to subpeona and make recommendations to the court. Credit checks on offenders as in Fair Credit Act ruling.
11. Supply notification of rights under law as to enforcement of contracts to plaintiff, where there is a separation agreement. (This is a constitutional right.)
12. Semi-annual announced round-ups and jailings of violations with media coverage and publishing of names, addresses, and occupations as is done in California.
13. Expanding the I.R.S. Intercept program to include collections for all unpaid child support whether the family receives social services or not. Very often the collection of additional funds could mean a families freedom from dependence on the welfare system. These suggestions would mean an improvement in the quality of life for the children of marital breakups and a lessening in the monetary burden of supporting a welfare system.

JANUARY 12, 1983.

To whom it may concern:

My original support order from my husband, a police officer was $75.00 per week for 2 children. As a recipient of social services I never had my day in court. Although there was no change in my husband financial circumstances, other than a substantial increase in his salary the dept. of social services took it upon themselves to lower his support to $32.50 per week.

I found employment and supplemented by social services, who collected the $32.50 per week from my husband, I managed to survive with my children. However cuts in social programs placed me $16.00 per month above the national standard of need. Had the original $75.00 per week order been in effect, I could have kept my job and lived with my children and not have been a welfare family. The final result to just survive was to leave my job and become 100 percent dependent upon the taxpayers.

Social services made me apply for unemployment benefits. They in turn said I did not leave my own choosing, but rather I was coerced into quitting—a victim of society's effort to save taxpayer dollars. Civil Service opposed my receiving benefits and the result was a judicial hearing. The judge's decision was, I made every attempt to remain employed, however outside circumstances made this financially impossible and I deserved the benefits.

My budget for a family of 4 is: $119.00 per week unemployment insurance, $25.96 per month from social service, $124.00 per month in food stamps.

My family lives at proverty level, while the police officer is at the minimum payed support and is at the moment $3,000.00 in arrears. He enjoys a high standard of living, financial comfort, and community respect. Where then may I ask is justice?

MORE 1-PARENT FAMILIES

One of every five children in America last year lived in a one-parent family, a 54 per cent jump since 1970, the Census Bureau reported yesterday.

The figure, a reflection of increased divorce and more births out of wedlock, includes all children under age 18. Of 62.9 million such children, 48 million lived with both parents, 12.6 million with one parent and about 2.2 million with neither parent.

Although the national total was 20 per cent for children in one-parent families, the proportion was much higher among blacks than among whites. About 15 per cent of white children lived in one-parent families, the Census Bureau figures show. For blacks, the figure was 45 percent. In each case, the overwhelming majority lives with the mother.

The study, "Marital Status and Living Arrangements: March 1981" also found that since 1970, that number of people living alone rose 75 percent and the number of women aged 25 to 29 who had never married doubled to 22 per cent.

[From Newsday, Dec. 9, 1981]

A GIFT OF CHILD SUPPORT

It is commendable that Newsday is again running the Adopt A Family series for the holidays. However, as a worker at SPLIT (Separated Persons Living in Transition), which helps people ajdust to divorce and enforce orders of support, I particularly notice the large number of families who are in the series because they are not receiving child support.

The best holiday gift these families could receive would be tough legislation, strictly enforced, that would ensure them the support they are due so they would not need any more holiday handouts.

And since many of these families are on Aid to Dependent Children because they are not receiving support, such legislation and enforcement would be a welcome gift to the taxpayer, too.—Susan Parato, North Bay Shore.

[From Newsday, Oct. 17, 1981]

INFLATION AND CHILD SUPPORT

Hurray for Annette Michaels, attorney Steven Kraft and Judge Jack Cannavo who, against all odds, are trying to change case law that has served to punish children in this state since 1977 ["Suit Links Support, Inflation," Sept. 29].

Mrs. Michaels' request for an increase in child support appears to rest, under the 1974 case of Bodin vs. Bodin, on whether or not she anticipated double-digit inflation in 1973 when she signed a separation agreement. If she had been blessed with that kind of foresight, as the father's lawyer claims, she would have a Wall Street office, a six-figure salary, and no need for financial relief. And perhaps that was why Mrs. Bodin was turned down in 1977 when she asked the father for more help with their daughter's college expenses. At that time she was earning $45,000 a year, and the Court of Appeals must have felt she could manage with what she was receiving.

Unfortunately, judges have denied poorer women an increase in child support because, like Mrs. Bodin, the terms of their separation agreements were "fair at the time" and there had been "no unanticipated change of circumstance."

For example, one woman was told in 1978 that she would have to be content with the total of $35 a week (for three children) that she had negotiated with her husband in 1971, and the court denied her petition for $25 per week per child on the basis of New York case law.

It was not just the high inflation rate that was unforeseen by these mothers—it was the Bodin decision itself. Who would have thought that the court, our *parens patriae*, would deny a child the right to necessary support from a financially able parent? Certainly not the many custodial parents who agreed to a certain amount of child support only because their attorneys told them they could always go back into court if the child's needs increased. (It should be mentioned that noncustodial parents have not been denied their right to ask the court for a downward modification if they run into financial difficulty.)

Hopefully, the members of our highest court will see a flood of petitions not as reason to defer justice for children, but as an opportunity to redress an ill-used decision. As the administrator of SPLIT, Inc., an organization that works to help those with support problems, I hope the Court of Appeals will rise to the challenge of the Michaels case.—Marilyn Meadows, North Bay Shore.

HALF OF MATRIARCHS POOR

NEW YORK (UPI)—More than half the women who run families on their own are in poverty, the U.S. Commissioner of Labor Statistics said yesterday.

Commissioner Janet Norwood said this means that one out of every 12 families in the nation is in poverty.

At present, one out of every six families is maintained by a woman who does not have a husband. Ms. Norwood said the median annual income of those families is $6,179. The Census Bureau lists $8,414 as the poverty level for a family of four.

"Women who maintain families on their own have a very difficult time in the labor market," she said.

In an address to the Industrial Relations Society of New York, Ms. Norwood said such families have risen in number from less than 5 million in 1960 to almost 10 million today.

In addition, she said, the marital status of the women involved has "changed considerably." In 1960, she said, about half the women maintaining families were widowed. Now, she said, only 30 per cent are in that category, 50 percent are separated or divorced and 20 percent never married.

Ms. Norwood said the unemployment rate is considerably higher among these families than among traditional families—15 percent compared to 9 percent.

In addition, she said, unemployment tends to run in families.

"That is when one family member is jobless, there is a greater likelihood that another person in the family may also be unemployed."

BE ASSERTIVE ON CHILD SUPPORT

The article on Suffolk County's Child Support Enforcement Unit "High Marks for Suffolk Welfare Unit" April 20] had the tone of a press release. That self-congratulatory air proves to be unwarranted when the facts are examined. In calendar year 1981, 8,142 families were receiving Aid to Families of Dependent Children (ADC) in

Suffolk County. For these families, the enforcement unit collected $4,833,913 in that calendar year. This amounts to roughly $30 per family per month. The unit's expenditures were 8,452,578, resulting in the collection of $1.49 for every one dollar spent.

These figures are unimpressive but could be improved if only the unit did not frustrate its own purposes. It is more willing to accept a delinquent parent's vague verbal claim of "financial problems" than to do a thorough investigation of assets and ability to pay. It consistently neglects to utilize the various means available to obtain information on a delinquent parent's location and financial profile, such as credit data reports and tax returns. Also, it completely precludes a parent from pursuing his or her own remedies, such as suing upon a separation agreement or petitioning the Family Court. Public assistance is humiliating enough without having all rights to collect child support assigned to a government agency.

Our organization's criticism stems from 10 years experience as a child-support enforcement advocate dealing with the support enforcement unit and personal contact with many hundreds of persons with support collection problems through our organization, SPLIT. We are eager to give praise where due, but accolades self-conferred are tainted—Virginia Ingle, Advocate, Separated Persons Living in Transition Inc., North Bay Shore.

Collecting Parental Bad Debts

Kudos to Suffolk District Attorney Patrick Henry, agreeing to enforce a law that has always been on the books by pushing for criminal prosecution of parents who fail to pay child-support commitments ["Suffolk DA Pursuing Complaints on Child Support," Mar. 10]. Perhaps now, some of those fathers, at least in Suffolk County, will have to follow through with court-ordered child support for their offspring.

It is truly ironic that a man can be jailed on a bad debt charge when a complete stranger is involved, yet when it's his own flesh and blood, the court will look the other way.

It is a pity that there is just one humane district attorney in the State of New York who understands the injustice meted out to tens of thousands of children in this country, many the children of affluent fathers, existing at, or below, the poverty level, supported by the taxpayers of this country. Why can't every DA in the state, and indeed in the nation, reach out and prosecute these fathers who have abandoned their children?—Evelyn P. Pike, Jericho.

Mrs. **Kennelly**. Thank you very much.

I want to make clear that we would not be having this hearing today if members and staff, both sides of the aisle, had not agreed that the emphasis has been up to now on AFDC cases.

We know that the original charge was AFDC and non-AFDC, and we are attempting to bring the non-AFDC on an equal basis in the collection process.

Also, I would like to say that each time—I have only been here 2 years—but each time I go through a hearing like this, it is incredible the testimony of those who have experienced something, and those that have not lived it.

The National Women's Law Center.

STATEMENT OF ANN KOLKER, POLICY ANALYST, NATIONAL WOMEN'S LAW CENTER

Ms. **Kolker**. I am delighted to be here. I will try to summarize my remarks, but I would like to first call your attention to the fact that today I am testifying on behalf of 28 other major national women's and civil rights organizations, and it is such an extraordinary first group, that I would like to read it into the record right now: American Association of University Women; Citizens for Fair Child Support, Davison county, North Carolina.; Displaced Homemakers Network, Inc.; Federally Employed Women, Inc.; Kentucky Infants Deserve Support; Leadership Conference on Civil Rights;

Mexican American Women's National Association; National Center for Women and Family Law; National Council of Jewish Women; National Council of Negro Women; National Institute for Women of Color; National Federation of Business and Professional Women's Clubs, Inc.; National Organization for Women; National Urban League; National Women's Conference Committee; National Women's Party; National Women's Political Caucus; Nebraska Commission on the Status of Women; NOW Legal Defense and Education Fund; Office of Public Policy, Women's Division, United Methodist Church Older Women's League; Organization for the Protection of America's Children, Higley, Arizona; Parents Organization for Support Enforcement, Bakersfield, California; People's Alliance for Children's Equal Rights, Louisville, Kentucky; Rural American Women; Unitarian Universalist Women's Federation; Women's Equity Action League; and Women's Network of Montgomery County, Pennsylvania.

We are pleased to offer our support for title V of the Economic Equity Act, H.R. 2090, and the companion bill, H.R. 2374, introduced by Congresswoman Barbara Kennelly.

As members of this committee well know, a child support enforcement program has been in effect since 1975, when Congress passed the child support enforcement program as a new part D of title IV of the Social Security Act. Each State has set up a child support enforcement office, known as the IV–D office.

Collection efforts on behalf of families owed support payments are currently being made in every State. While the National Office of Child Support Enforcement points to the growing total of collections—nearly $1.8 billion in 1982—as evidence of the success of the program, there are others—including the 28 groups supporting this statement and the sponsors of the EEA—who believe that there is great room for improvement. We are pleased to see that many of the deficiencies of the current program have been addressed by title V of the EEA and are here today to share with the committee our views on this measure.

It is altogether fitting that provisions to improve child support enforcement are part of the Economic Equity Act. For when one compares the statistics on the economic burdens experienced by single-female-headed households with statistics on collections of child support payments, it is clear that the inadequacy of child support payments contributes to the low income levels of so many female-headed households.

So much attention has been given to these figures that I am going to skip over them, but call your attention to a couple of figures recently released by the Census Bureau on collection of child support payments.

Only 35 percent of the 8.2 million women bringing up children with an absent father received any child support payment in 1981, and only 22 percent received full payment.

These figures speak for themselves. They make a compelling case for the need to strengthen the child support enforcement laws, so that parents can achieve for their children the economic security that the children are entitled to. Although the economic circumstances of the absent parent may have some impact on the payment of support, the fact that nearly two-thirds of the individuals bringing up children from an absent parent do not receive any financial support cannot be explained away so easily. Passage of title V of the Economic Equity Act is vital to assuring that children receive the support to which they are entitled.

The scope of the child support enforcement problem makes it important that State child support enforcement offices handle cases of all families—not just those receiving public assistance. Therefore, we are pleased to see that the new bill continues the current requirement that States serve all families seeking assistance in enforcing child support.

Despite the current law requirement, many States have, in fact, limited their enforcement to families receiving AFDC. Because collections for AFDC families are simply used to offset a family's welfare grant, the current child support enforcement program offers more fiscal relief to State budgets than assistance to needy children.

The National Council of State Child Support Enforcement Administrators, in their February 1983 report, acknowledges that States are strongly encouraged to emphasize collections for families on AFDC to the exclusion of other eligible families.

Additionally, many women across the country seeking help from the child support enforcement office within their State report frustration in obtaining agency cooperation if they are not welfare cases. Nonenforcement for non-AFDC families is a problem of significant proportions.

Moreover, the administration, by proposing a restructuring of the Federal reimbursement formula, has sent a clear signal that AFDC collections should be emphasized over non-AFDC. In contrast, title V of the EEA, by requiring improvements in State collections that will benefit non-AFDC as well as AFDC families, is a significant step forward for all families in need of prompt, regular, and adequate child support from absent parents.

In recognition of the importance of serving all families with child support enforcement problems, the purpose clause of Mrs. Kennelly's bill has been amended to restate that the program must serve all children. We applaud the objective here, but note that the new clarifying purpose language merely restates rather than revises the intent of existing law.

We suggest one minor change in the language of the amendment to the purpose clause to insure that all children are served. This clause reads, "The purpose of the program authorized by this part is to assure compliance with obligations to pay child support to each child in the United States living with one parent."

The phrase "living with one parent" may exclude children owed support living with grandparents or other relatives. Hence, we suggest that the phrase "living with one parent" be deleted. This change will clarify that every child owed support is entitled to collect it through the program.

The act now covers collections of child and spousal support for individuals with whom a child is living. We believe it should be expanded to include individuals without dependent children seeking to enforce alimony or spousal support.

Few women are awarded alimony, and those who are, are usually individuals with severe need. These women are often disabled or have been out of the labor force a very long time and have no way of obtaining financial independence. Yet the financial security that alimony provides them is every bit as critical to their economic stability as child and spousal support is to women with dependent children, and they, too, are entitled to the assistance of the State IV-D office.

We also support the provisions of the legislation expanding the income tax refund intercept. In 1981, Congress amended the child support enforcement program to permit the Internal Revenue Service to deduct past-due child support owed to families receiving public assistance from income tax refunds of absent parents.

Section 502(a)(b)(c) expands the IRS authority to deduct past-due support payments from the refunds of all absent parents, even those whose children are not on AFDC.

We are concerned, however, about the bill's provision permitting the IRS to charge a fee for the costs involved, particularly because the act already authorizes States to assess fees for serving non-AFDC families.

This is a heavy dose of fees and could substantially cut into payments that women expect to receive. To the extent that a provision for a fee is included, we urge that the legislative history reflect that the fee be charged against the owing parent and that adequate guidelines to insure proper notice to this parent are developed.

One problem with the existing intercept program has recently come to our attention, namely, that refunds from joint returns have been intercepted when only one parent is liable for the past-due support. We believe the statute should mandate that IRS regulations require advance notice to joint filers about refund intercept for past-due support and specify procedures for protecting the portion of the refund accruing to the nonliable joint filer.

The heart of title V is the requirement that States establish a clearinghouse or comparable procedure to collect and disburse support payments, to monitor the timeliness of payments, and to trigger enforcement mechanisms if arrearages develop.

This clearinghouse appears to be modeled on successful State programs. We are pleased that all States will be required to establish the kind of enforcement program whose effectiveness has already been proven.

The important aspect of the clearinghouse approach is that it permits separating and divorcing parents to remove the issue of child support payments from any emotional tumult between the parents.

The clearinghouse provides a kind of neutral mechanism to collect and disburse payments, and thus insulates the obligations owed the child from the discord that the parents are experiencing. The absent parent makes his or her payment directly to the clearinghouse, and, more importantly, if a payment is not forthcoming, the clearinghouse notes the deficiency and initiates action, relieving the parent to whom the obligation is owed of hiring a lawyer to enforce the order. Because complete and timely support payments are so vital to a child's well-being, the establishment of a child support clearinghouse in every State is important to insure that complete and regular payments are received by every family owed child support.

Timeliness of the payment is critical, especially for families being terminated from AFDC who may get lost as they are moved from AFDC to non-AFDC status. The bill should specify that the clearinghouse must disburse funds in a timely fashion to assure that all children are in prompt receipt of the funds due them.

Another important feature of the clearinghouse is that it will help to ameliorate the problem of arrearages which often build up to the point where even the most vigorous efforts cannot recover the full amount of support owed.

A carefully set-up computerized monitoring system will track all payments received, will be programed to flag delinquencies immediately, and trigger an appropriate enforcement mechanism. Prompt action must occur. This will prevent the accumulation of past-due support which plagues so many families and puts such a strain on the enforcement efforts of the IV-D offices now.

On the critical issue of enforcement, we think there is a need to clarify that arrearages confirmed by the clearinghouse should result in timely enforcement actions. Both the language of section 503(a)(10)(D) and the legislative history should be written to reflect that prompt enforcement actions such as mandatory wage assignments must be triggered when delinquencies of 2 months occur. This will not only insure immediate and regular assistance to families owed support; it will also send an important message to other nonsupporting parents that nonpayment will not be tolerated.

Section 504(a) of the act spells out procedures which States must develop in order to improve collection efforts. The provisions set forth in this section are generally sound, though we are not clear what criteria were used in making some of the procedures mandatory and others optional.

Careful consideration should be given by the committee to insure that the most needed of these procedures are the ones that are made mandatory.

Sections 504(a) (21), (22), and (23) are essential for the strengthening of enforcement efforts. They would require States to: Implement mandatory wage withholding laws when arrearages of 2 months or more occur; provide procedures for imposing liens against property for past-due support; and, for States with a State income tax, require that a refund intercept be authorized to collect past-due support obligations.

The use of the word wages is too narrow and should be expanded so that moneys from consulting fees, moneys earned by the self-employed, et cetera, would be included.

Section 504(a)(24), which requires States to provide quasi-judicial or administrative procedures in the establishment, modification and collection of support obligations and in the establishment of paternity is problematic. There is no doubt that an administrative or quasi-judicial procedure is usually speedier than a judicial proceeding and therefore expedites the whole process for individuals seeking support payments. In this sense, administrative and quasi-judicial procedures are beneficial.

On the other hand, removing the establishment of paternity and support obligations from the courts and turning over these important matters to an administrative body may not be a good idea. First, there may be State constitutional problems. Second, these agencies may lack the requisite experience to do the job adequately.

Indeed, such a procedure has resulted in disparities in support awards between those established by administrative and quasi-judicial bodies and those established by the courts. Hence, the language should be changed to clarify that the administrative body is not authorized to assist in the establishment part of the collection effort.

Finally, we have some questions about the last provision, 504(a)(25)(E), which would require the States to use:

> An objective standard to guide the establishment and modification of support obligations, by measuring the amount of support needed and the ability of an absent parent to pay such support, such that comparable amounts of support are awarded in similar situations.

We recognize that there is an enormous variation in the awards which similarly situated people receive—even in the same jurisdictions—and we applaud the intent of the drafters in attempting to rectify these disparities.

"Comparable amounts in similar situations" is an important and admirable objective. However, research indicates that there are several approaches used to guide courts in the setting of awards.

A commonly used method is to base the award level on the reasonable needs of the child. A problem with this method is that it results in a dramatic decline in the standard of living for the children and mother while the father enjoys an increase in his living standard.

A better approach recognizes that if there is a reduction in income because two households must now live on the funds previously available to one household, each household should bear the brunt of that reduction. This approach is generally more equitable for women and children.

What is important for the purpose of this bill, however, is that improving criteria for support awards is just getting underway. As a result, we think that it is premature to require the use of objective standards. We recommend that the legislation reflect the importance of developing appropriate standards and that provision be made for a study to come up with guidelines that could be adopted in the future.

There are two further problems with child support enforcement that are not addressed in the Economic Equity Act. First, as has been previously pointed out, when support is collected for AFDC families, the payment goes to the State welfare office and simply offsets the family's public assistance grant.

The main beneficiary of the collection is the State, unless the support collected is greater than the welfare standard. Therefore, the family receives no real monetary benefit from the collection.

Moreover, if the family is rendered ineligible for AFDC, they may lose medicaid eligibility as well, although the support award is insufficient to cover their medical costs. Several options are available to increase the monetary benefit of support collections for AFDC families.

A disregard of part of the award could be provided. This was done when the child support enforcement program was originally enacted, as an incentive for women to cooperate in identifying absent parents.

Another option would be to continue medicaid eligibility for several months for the families whose child support payments remove them from the public assistance roles. This is currently done for 4 months when AFDC families are rendered ineligible for assistance because of earnings.

Another obstacle to effective child support enforcement exists in some States that impose statutes of limitations in paternity actions. These provisions preclude many children born out of wedlock from ever pursuing their rights to support.

In recent years, the Supreme Court has struck down as unconstitutional several State statutes which deny an illegitimate child the same right to support and to establish paternity that a legitimate child has.

Just last month, in *Pickett* v. *Brown,* 51 U.S.L.W. 4655, June 7, 1983, the court declared unconstitutional a 2-year statute of limitations for paternity actions. State courts in at least six States—Arkansas, Florida, Kansas, Montana, New Mexico, North Carolina—have also invalidated statutes of limitations for paternity actions as unconstitutional.

The Supreme Court, of course, can only decide the cases before it. Statutory limitations on paternity actions of longer than 2 years remain a problem in several States, however.

According to the National Conference of State Legislatures, as of 1981 a majority of States required that paternity actions be initiated within a specified time period ranging from 1 year after birth to 6 years after majority.

We therefore urge the committee to add to the bill a requirement that States insure that limitations on the right to file for child support be no greater for children born out of wedlock than for other children. To insure simple and equal justice for all children seeking support, special statutes of limitations on paternity as distinct from other support actions should not be permitted.

In conclusion, the failure of nearly two-thirds of today's absent parents to support their own children should encourage this country to make a national commitment to strengthen child support enforcement. Title V of the Economic Equity Act, which requires States to improve their child support collection efforts, represents an important step in this direction.

We urge prompt passage of the measure so that children begin to receive the financial support from both parents to which they are fully entitled.

Thank you.

Mrs. **Kennelly**. I had a copy of your remarks before the Senate Finance Committee, and we have already begun to look at many of your changes.

Ms. **Kolker**. I am pleased to learn that.

Mrs. **Kennelly**. Mrs. Fromm, you talked about lack of application.

Did you mean that in the real sense of the word? There is no application?

Ms. **Fromm**. I mean an application form which is required to be held on file so that when the Social Security Administration does its annual audits of the individual State's plans, they can see the number of applications on file and determine what work has been done on those particular cases. When the individual jurisdictions in a State fail to provide an application form to an applicant, there is no record of that case on file for the audit purposes.

Mrs. **Kennelly**. It is really that basic, that we need an application form?

Ms. **Fromm**. Yes, that is the only way to substantiate the number of cases in the caseload for the State.

Mrs. **Kennelly**. You had a situation, three cases? One woman had her payments reduced?

Ms. **Welch**. I am the woman. It was supposedly a change in the economic circumstances which really were never proven in the court. It was what was said to the judge who modified the order. This is very normal. Most women who go into court, whether it is under the URESA system, where someone appears in court on my behalf, when she goes in and establishes arrearages, and it happens all the time, and the judge then feels that the arrearages are punitive and he will discourage any payment; so he will hold the arrearage in abeyance, and then reduce the award so every time you go to court, you not only don't get paid, but you now have a support order for less money than you had before, which you will not get, either.

It is a catch-22, but it is very, very severe.

The dropping of support awards seems to be the way it happens. The judges seem to feel, well, yes, this is establishing a pattern. We will bring them in this year and next year and each time we will reduce the award.

Mrs. **Kennelly**. I have a question I would like to ask all of you, and I know it is not fair to ask for an answer today. I heard it yesterday, and you heard it today, and that is reducing from 70 to 60 the Federal input and spreading that around and rewarding the good States.

You people have your organizations and have your experience. Could you write the committee with what you think about that, and maybe some changes that should be made. That is going to be a very big part of what we are doing, and I would like to have your experience.

Mr. Campbell is going to have questions, and we have a quorum call, which we will have to go to, and then there is a vote following that vote.

We will be back immediately after that, so I hope the next panel will not leave.

Mr. Campbell.

Mr. **Campbell**. I am not going to have time to pursue the questions that I have.

Two things I would like to point out: One was the past-due payments.

Somebody suggested they be indexed to the CPI.

Wages of the working people often do not keep up with the CPI.

I would ask you to consider the possibility of the indexation to wage increases with no opportunity for decreases.

The second thing is, that you seem to make a point even after the non-AFDC custodial parents pursue the court-ordered support, in several States the net result is nothing, no payment at all.

Are you really telling us that presently existing laws and private remedies do not work at all?

I don't have time for you to answer it.

Mrs. KENNELLY. They are all shaking their head no.

Mr. CAMPBELL. Does this imply that a parent must turn to AFDC in order to get child support help?

What in the present law is working or could be improved upon? We all know some of the problems and imposing this in a broader sense. I wish we could discuss it.

Please discuss with me the custodial father and the obligation of a lower wage-earning spouse. From that standpoint, a remarried spouse, either male or female, and the obligation and the tax deduction. Mr. Conable and Mr. Rostenkowski have a bill in that gives the tax deductions for dependents to the custodial parents.

[The following were subsequently received:]

NATIONAL WOMEN'S LAW CENTER RESPONSES TO QUESTIONS ON CHILD SUPPORT ENFORCEMENT

FEDERAL REIMBURSEMENT FORMULA

The Administration has proposed restructuring the federal reimbursement formula by reducing the guaranteed federal payment to the state from 70 percent to 60 percent, repealing the 12 percent incentive to the states for AFDC collection, and making the approximately $200 million "saved" by these cut-backs available to the states on a performance basis. Those states with better collection records for both AFDC and non-AFDC families would be entitled to more federal dollars than states with lower collections.

While the Center believes that the inclusion in the reimbursement formula of non-AFDC as well as AFDC families is an important step forward, we also believe that the proposal advanced by the Administration is insensitive to the needs of both these groups of families. The problem with the proposal is that there is enormous variation in collection and enforcement procedures among the states, and that the states with the least sophistication are those which at this point need federal assistance the most. It is families not receiving support in states which have not even begun to computerize their recordkeeping, or have inadequately trained personnel, who are least likely to get their orders enforced at present—and who will be even less likely to under the Administration's performance-based reimbursement scheme. If any change in the federal match is proposed, and we are not convinced that any is necessary, it should be in the direction of bolstering the states most in need rather than rewarding those that have developed an effective program of their own.

CUSTODIAL FATHER AND THE OBLIGATION OF THE LOW-EARNING SPOUSE

This is certainly not the usual situation because the vast majority of custodial parents are women who suffer a disproportionate drop in income when the family splits up. (One California study found that after divorce, a husband's income rose 42 percent while a wife's dropped 73 percent.) Furthermore, when women are employed, even in an intact marriage, their earnings are considerably lower than men's. They make only 59 cents for every dollar that men make. Hence, even when the father is the custodial parent, the mother is unlikely to have resources equal to those of the father, much less sufficient funds to support children in another household. The Center believes, however, that the support laws should be gender neutral and that women financially capable of supporting children living with a custodial father should assume that responsibility.

DEPENDENCY EXEMPTION TO CUSTODIAL PARENTS

Under current law, the custodial parent is entitled to treat the child as a dependent for purposes of claiming an exemption on income taxes, unless either the divorce/separation agreement specifies otherwise and the non-custodial parent provides at least $600 in support payments, or the non-custodial parent provides $1,200 in support and the custodial parent does not provide more.

H.R. 3475, §204, currently before the Ways and Means Committee proposes changing current law to permit the custodial parent to claim the child as a dependent in all cases, unless the parent waives in writing that claim. This change may benefit some, or even many, women. However, without data, which breaks down custodial parents at varying economic levels and correlates this with this size of their children's support award, it is difficult to ascertain the number and economic level of women the proposed change will benefit. Furthermore, custodial parents, primarily women, often have much lower incomes and are consequently in a lower tax bracket than their former spouses. Knowing that the dependency deductions might be "worth" more to their ex-spouse in a higher tax bracket, they might prefer to forgo the dependency claim in order to achieve a higher monthly award. There may be good reason to alter the tax law to provide a better chance than exists under current law for custodial parents who elect to claim the dependency exemption. But at this writing, we do not have sufficient data on the impact of the change to support the provision currently before the Committee.

THE OBLIGATION OF THE REMARRIED SPOUSE

Remarriage of either custodial or absent parent should not affect the support obligation of the absent parent, though to the extent that the financial needs of the children change, the award levels are subject to revision and modification. A child who incurred unexpected medical expenses may, for example, require a higher monthly payment for a certain period, just as the child who began receiving substantial income from sources other than the absent parent could be subjected to a reduced payment.

Remarriage of the absent parent should in no way absolve that parent from providing regular support to their children. That responsibility transcends other financial obligations which an absent parent may incur. When child support is reduced or withdrawn because an owing parent spends his or her money on the new spouse or house, it is the children who suffer. Fairness to children dictates that their financial needs must take precedence over the changed marital situation of their parents.

IF PRIVATE REMEDIES NET NOTHING TO THE CUSTODIAL PARENT, IS AFDC THE ONLY RECOURSE

The fact that private remedies to enforce support obligations so often produce nothing on its face makes the case for strengthening the enforcement process. Mandatory wage assignments, prompt action when delinquencies occur, security bonds, and property liens for owing parents with a history of non-payment—all are essential to assure that child support is paid regularly. When enforcement is so indifferent and inadequate that children must wind up on public assistance before the state takes their plight seriously, it is harmful to the children and a sad commentary on the state's concern for children. The Center believes that states must be required to service non-AFDC families as well as AFDC families. To do anything less invites the economic deterioration of single parent families and adversely affects the very children the state is mandated to assist.

OECS, INC.,
Reisterstown, Md., July 18, 1983.

Hon. HAROLD FORD,
Chairman, Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR CHAIRMAN FORD: At the hearing on July 14, the Subcommittee raised several questions, requesting the panel on which I testified to respond by mail.

We wish to express appreciation to the Subcommittee members for their attentiveness to the stories and testimonies presented by the many advocacy groups who were represented. We hope that we have been able to shed some light on the extent of the child support problem and its frightening consequences.

The Organization for the Enforcement of Child Support (OECS) was very pleasantly surprised to see members from distant organizations, who traveled far to participate in this important hearing. It was certainly a great hardship for some of them to have taken time off from work and met the expenses of the trip. Our organization is aware of the existence of 35 such organizations across the country and has been engaged in mutual exchange of newsletters with them. Had they all been able to afford the time and cost involved, we feel sure the hearing attendance and testimonies would have been overwhelming.

Not only OECS, but all the grassroots organizations and every person who has stood alone on the horns of the dilemma, wholeheartedly agree that the time is now for Congress to act. We will try, to the best of our ability, to answer the questions put before us and to interject any suggestions that our analysis of the situation deems prudent.

H.R. 216

In expanding our previous testimony on Congressman Long's Tax Refund Offset Program (TROP) bill, our organization is submitting excerpts of a paper, prepared by the Maryland Child Support Enforcement Administration, showing the proposed implementation of Maryland's non-AFDC Tax Refund Intercept Program (TRIP). (Please see attachment #1.) It is conceivable that the federal non-AFDC TROP could be implemented in much the same way. However, the Maryland TRIP is faulty in that it only provides this service in cases where the payments have been ordered through the State agency. Maryland requires that the arrearages must be a public record. This still severely restricts the services given and large numbers of cases will be bypassed. The reasoning behind the limiting regulations is that inclusion of cases in which the money has been ordered to be paid directly from the obligor to the obligee would be too time consuming and would slow the system down. Maryland officials have concluded that far fewer cases would be certified. OECS has pointed out that a simple affidavit from the child support recipient, coupled with a responding affidavit from the payor could begin the process of certification. If the two do not agree, a hearing officer could call them in for a deciding conference, asking the obligor to bring proof of payment.

Another fault in the Maryland procedure is that when the public records of arrearages and the obligee's records do not agree, the lower amount will be automatically certified. In pointing out the inaccuracies of the State's recordkeeping system and in requesting that the custodian's and non-custodian's records be admitted, OECS has been told, again, that this procedure would be too time consuming. Maryland officials say that State tax refunds are small compared to most arrearages and that accuracy makes little difference. Our organization feels that accuracy will be far more important in the federal TROP, because the individual refunds are much larger. The State will be doing the certifications for TROP.

In addition, one invaluable benefit of both TRIP and TROP is the ability to locate absent parents through the information given on tax returns. If a person cannot be located, he or she cannot be served process; hence, a court order cannot be obtained, enforced, or modified. Surely, through a person may successfully remain hidden from a child support obligation, he or she will certainly put the correct address on the income tax return.

It must be stressed that governmental regulations should not discriminate against any child for any reason and all children should receive the support which is legally and morally theirs.

60 PERCENT FEDERAL FINANCIAL PARTICIPATION (FFP)

Reducing the FFP to 60 percent of the total cost would further strain an already fiscally overburdened project. We are aware that the country is in the throes of economic difficulties but, unfortunately, it is those very difficulties that are feeding the initial problem. It is quite possible that some "carrot-on-a-stick" legislation might encourage the States to streamline programs within the system. This could possibly save enough to allow the federal government to sustain the current level of participation. Reduction of FFP would only tend to decrease the cost effectiveness of some already troubled programs. Suggested legislation would deal with: (1) Contractual participation with credit bureaus for determination of assets and location of defaulters; (2) Revision of IRS Full Collection Process guidelines, allowing more liberal access to the procedure; (3) Revision of TROP guidelines; and (4) Increasing IV-D FFP and strict imposition of the 5 percent penalty. This would not interfere with the action on H.R. 216, but deal with a point entered in another question raised on joint returns by the obligor and new spouse. A definitive ruling would satisfy more of those involved and expedite the transfer process. For example, simple mathematics would determine what percentage of the return was contributed by each person and the TROP commitment could be calculated accordingly.

THE CUSTODIAL FATHER AND THE OBLIGATIONS OF A LOWER WAGE EARNING EX-SPOUSE

This is a unique problem fraught with suppositions. In many families today there are two wage earners. When a divorce occurs and the father retains custody, there is usually reluctance to even order child support payments by the mother. Because of the disparity of wages, it is quite obvious that the woman's financial contribution was not large when the family was whole. Now the woman must survive on her income alone. There have, however, been a few cases where the custodial father has brought suit against his ex-wife for contempt.

OECS contends that child support should never be sexually biased. It is the legal and moral duty of both parents to provide for their children to the best of the parents' capabilities. Regardless of which parent retains custody, the non-custodial parent should still remain a parent in all respects. By this we mean that it is the moral duty of the non-custodial parent to participate in the lives and nurturing of the children. It is also the legal duty of the non-custodial parent to participate in the financial responsibilities. It does not matter whether the non-custodial parent is the father or the mother—Kids Need Love and Child Support.

OBLIGATIONS OF A REMARRIED SPOUSE

Many times, when an ex-spouse remarries, he or she makes new obligations or accepts the new spouse's obligations, "because he feels he must care for those whose needs he sees and hears about daily".[1] OECS contends that the first obligations should always take precedence over newly and voluntarily created ones.

STEPPARENTS' OBLIGATIONS

For many years, non-supported children, whose custodial parents have remarried, have been denied BEOG and other governmental college grants based upon their stepparents' incomes and assets. In the last few years, stepchildren have been denied AFDC grants based upon their stepparents' incomes. OECS does not advocate unnecessary receipt of governmental moneys. However, it is very unfair to throw the burden upon stepparents who have no legal responsibility to the stepchildren when no governmental efforts are made to force the natural parents to assume their obligations. Some Congressional action should be taken to assure that all children will receive enforcement services, removing the burden from the stepparents and placing it where it belongs—squarely upon the natural parents.

IRS DEDUCTIONS (EXEMPTIONS)

The issue of who gets the deduction is often settled in the divorce decree. However, it doesn't always work any better than the child support payments do. If the non-custodial parent gets the deduction and doesn't pay support, there is a double bogie in which the kids and the IRS both lose. Add to that the fact that the custodial parent has contributed 100 percent (or more, by IRS minimum-deduction) of the support of the child and cannot deduct any of it, there is another loser. To really complicate matters, sometimes both parents take the deduction. It is no wonder so many CPA's are prematurely gray. Legislation or guidelines creating a reporting system that would add trigger notations on accounts might ease the problem at the onset, or to insert this as a data request on TROP forms could alleviate a large portion of this confusion. Again, we feel it would have definite positive fiscal results.

IRS rules and exceptions in support of dependents lean heavily toward benefitting the non-custodial parent. According to IRS Publication 504,

"The parent who does not have custody, or who has it for the shorter time, is considered to have provided more than half the child's support if either one of the following two exceptions applies.

"First exception: You do not have custody and you provide at least $600 toward the child's support during the calendar year, regardless of the amount of support the custodian has provided. The decree of divorce or a written agreement between the parents states you can take the dependency exemption for income tax purposes. The agreement must be in writing.

"Second exception: You do not have custody and you provide $1,200 or more of support for each child for the calendar year. Your former spouse does not show that he or she provides more for support. You can take the child's exemption even though the decree of divorce or separation, or a written agreement, gives the exemption to your former spouse. The parent not having custody, to qualify under this exemption, must provide at least $1,200 support for each child claimed as a dependent."

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[1] David L. Chambers, "Making Fathers Pay," Chicago: The University of Chicago Press.

Therefore, we feel that the IRS rules are discriminatory and deserve special Congressional attention and revision.

Because of high attorney fees, the results of going to court often nets nothing, or even creates a deficit situation. Therefore, is the only recourse AFDC?

This question is a study in bureaucratic paradox. Rather than spend a lesser amount to collect child support, agencies encourage the more expensive alternatives of private litigation and/or AFDC without further investigation. A few legislative changes would identify a large percentage of cases at the onset of divorce and would automatically set certain legal processes into operation swiftly, painlessly, and cheaply. These would be simple options like voluntary wage assignment at the onset, mandatory wage liens at the first indication of default in suport (not two or three years and prodigious legal fees later). Uniform interstate enforcement and uniform in-State services would reduce red tape and expedite procedures.

No, AFDC is not the only recourse. A custodial parent may work three jobs; or the extended family (grandparents or other relatives) may continue to pitch in rent money and food permanently; or the churches may distribute food and clothing more liberally than they already are doing; or more soup kitchens could open; or Goodwill stores could stop selling clothing, furniture, and appliances and start donating these items to non-supported families; or doctors and pharmacists could donate all medical treatments and medical supplies; or, most of all, more emergency shelters could open so that all homeless, non-supported families may take refuge. Please see Attachment No. 2.

AFDC is not and should not be the only recourse. There is too much money, too much manpower, and too much good old-fashioned American Pride at stake here. Title IV–D was drafted to guarantee services to non-AFDC families. Reinforcing this legislation will ensure that all children will get their money, not the lawyers who must plead the pain of need of these children. These lawyers will not be out of a job or long, however. They will likely defend those who seek to defy their court orders.

SUMMARY OF RECOMMEDNATIONS

TROP for all children (not for AFDC cases, only; and not to exclude certain classes of people) should be mandatory.

TRIP in the States should also be all inclusive.

TRIP and TROP have the marvelous extra bonus of locating absent parents. This is a benefit that would be an invaluable aid to every non-supported child in the Nation if those programs were made available to everyone.

Reduction of FFP to 60 percent would further weaken the already flagging IV-D program. The program should be strengthened by an increase in FFP and strict imposition of the 5 percent penalty for non-compliance.

Non-custodial parents should be financially responsible for the support and maintenance of their children, regardless of the parent's sex and regardless of their level of income.

Remarriage and new responsibilities of the non-custodian should not become a valid excuse for child support delinquencies or modification of court orders.

Remove child support burdens from the stepparents and place them where they belong—upon the natural parents.

IRS rules and exceptions discriminate against custodial parents and should be quickly amended.

AFDC should be the last resort, rather than the only recourse. By providing all enforcement services to all non-AFDC children, the AFDC rolls would rapidly decline.

No child should be discriminated against for any reason (i.e. mother's income, receipt of welfare payments, court-ordered direction of payments, etc.) and all services should be offered to all families.

CONCLUSION

We hope that these recommendations are, at the least, food for thought. We cannot profess to have all the answers nor can every law cover every case or situation. The best governing body in the world cannot legislate morality. We can only seek the best possible solution and hope and pray that our best will be good enough. Best of luck, and God speed.

Sincerely,

ELAINE M. FROMM,
President.
WILLIAM E. FROMM,
Secretary.

[ATTACHMENT NO. 1]

NAFDC TRIP IMPLEMENTATION, JUNE 16, 1983

GENERAL SYSTEM DESCRIPTION

Background

The Tax Refund Intercept Program, established under Chapter 569, Laws of 1980, intercepts State income tax refunds in full or partial payment of delinquent support obligations. The law authorizes the Child Support Enforcement Administration to certify to the Comptroller of the Treasury annually the names of persons 60 days or more in arrears on court ordered support obligations. This originally applied to families whose support obligations were assigned to the State because of receipt of Aid to Families with Dependent Children. The law has since been expanded to include Non-AFDC families.

System description

The NAFDC TRIP system is an enhancement to the existing TRIP system which allows NAFDC obligors to be certified. Certification of NAFDC cases differs from AFDC since the arrears are due the NAFDC obligee rather than the state. It is our experience that NAFDC obligees occasionally accept direct payments from obligors without notifying the local child support agency. Consequently arrears amounts in these cases are not always accurate. In some cases the parties in the case may be reconciled and the NAFDC obligee has no further interest in the case or the arrears. In order to assure the accuracy of certified arrears, the NAFDC obligee will be required to submit an application requesting NAFDC TRIP certification for his or her case. The obligee will be asked to confirm the state arrearage figure or to supply his or her own arrearage amount. No NAFDC cases will be certified without an application from the NAFDC client.

The NAFDC certification process has three major steps:

Step One: The local certifying office will submit a list of NAFDC cases to the State office which will be used to send applications for certification to NAFDC obligees.

Step Two: NAFDC obligees will return applications for certification which will be used to identify NAFDC cases to be certified.

Step Three: NAFDC certifications will be merged with AFDC certifications to make a united TRIP file.

NAFDC cases will not be certified for federal offset.

File maintenance documents allow local offices to delete a certification or to reduce the certified arrears of an obligor. This option will be available to the local office as soon as the NAFDC certification applications have been sent to obligees.

Intercept procedures for NAFDC cases are the same as those for AFDC.

TRIP collections from NAFDC cases will be distributed in the same manner as other NAFDC collections, with the exception that there will be slightly more than a fifteen day delay from the date the obligor is notified of intercept to the date that checks are sent to the obligee. If the obligor files an appeal within that time period the distribution will be delayed until the disposition of the appeal.

TRIP appeals for NAFDC cases will be handled in the same way as those for AFDC cases with the exception that NAFDC obligees will be given the opportunity to attend appeal hearings and will be notified of the disposition of all hearings and record reviews in their cases.

NAFDC CERTIFICATION PROCEDURES

Cases are certified to TRIP by magnetic tape from local offices with automated files and by TRIP 1 forms from local offices with manual files. The enhancement to TRIP to accommodate NAFDC cases has required a change in the magnetic tape format and in the design of the TRIP 1 form.

The revised file format with instructions may be found in Appendix E. This format will be used when certifying both AFDC and NAFDC cases.

The new TRIP 1 form also will be used when certifying both AFDC and NAFDC cases. A sample form with instructions may be found in Appendix C.

The criteria for NAFDC certification are that a case must have a court order and be at least 60 days in arrears from the date of the last court order. An additional limitation has been imposed that the case must have at least $250 in arrears. However, the entire NAFDC caseload shall be submitted on the certification tapes and TRIP 1 forms since an automated process has been established for editing the non-certifiable cases from records submitted. The non-certificable cases will be used in forthcoming procedures to identify cases eligible for unemployment insurance benefit intercept.

The NAFDC records submitted will be combined into a statewide file. Those cases which have 60 days arrearage, and a sufficient address for the obligee will be placed in a preliminary NAFDC TRIP file. NAFDC TRIP applications will be sent to the obligees on this file and a list of the cases will be sent to the certifying offices. A sample NAFDC application with the accompanying information sheet may be found in Appendix C.

The automated editing process does not determine if the 60 days arrearage is from the date of the last court order, nor does it determine whether these cases have a court order. In order to eliminate cases which do not conform to regulations from the preliminary NAFDC TRIP file a list of the preliminary file will be sent to the certifying office. The certifying office will review the list and submit deletes for those cases which should not be certified. Forms may also be submitted to reduce the arrears in cases in which obligors have made substantial payments. The form used to delete cases or reduce arrearage amounts is the TRIP 23A. A sample of this form may be found in Appendix C. This form will be used throughout the collection year to delete cases and reduce arrearage amounts as required.

Applications from obligees requesting NAFDC TRIP certification and TRIP 23A forms will be used to update the preliminary NAFDC TRIP file. Deletes from local offices will supersede applications from obligees. A final NAFDC TRIP file will be constructed of those cases for which a NAFDC TRIP application has been received. Cases which have been deleted will be shown as deleted on this file and will not be available for intercept. A report will be sent to the certifying office listing the cases on this file.

The final NAFDC TRIP file will be merged with the AFDC TRIP file to create a master TRIP file. This file will be used to intercept state tax refunds and generate reports.

DEPARTMENT OF HUMAN RESOURCES, CHILD SUPPORT ENFORCEMENT ADMINISTRATION, TAX REFUND INTERCEPT PROGRAM

The Tax Refund Intercept Program (TRIP) is now open to families who are owned arrears of support money and have not been able to collect them. TRIP enables the family to get any State of Maryland income tax refund that is due the taxpayer who owes the support arrears.

TRIP FACTS

You can apply for TRIP each year for the following year's tax refund.

You must sign up no later than the date stated on the application form. Otherwise you must wait until the following year.

The support obligation must be payable through a court or a public support collection agency. If it's payable directly to you, TRIP cannot help collect for you.

The arrears must be at least 60 days overdue.

TRIP cannot collect regular support payments; only amounts overdue.

You can apply by mail.

You can collect arrears from a State of Maryland income tax refund only, not from a federal income tax refund.

We cannot tell you before you apply if the person who owes you support gets a State income tax refund. However, most people who file Maryland State income tax returns do get refunds (about 70 percent).

The average Maryland State income tax refund is about $200.00. We cannot tell you, however, if you do collect the refund, if you will get that amount, or more, or less.

No matter how high the arrears due you, you can only collect through TRIP the amount of the taxpayer's State income tax refund.

If the amount of the income tax refund is more than your arrears, you will get only the amount of the arrears.

If the amount of arrears you claim is different than the amount printed on the enclosed application, the amount certified to the Income Tax Division will be the smaller of the two amounts.

You will have to be very patient about getting the money. It will take until about two months after the taxpayer files his income tax return next year. If the taxpayer appeals, it will take longer.

A taxpayer whose income tax refund is taken by TRIP has, by law, a right to appeal to the Child Support Enforcement Administration. You should know this:

If the taxpayer appeals, the State may notify you to appear at a hearing. If you are notified and you fail to appear, you may lose your right to get the money.

If an appeal hearing takes place and your presence is requested you will be given advance notice of the time and place of the hearing. If the time and place is not practical for you, you may request a change.

If the decision on the appeal is that the taxpayer has a right to get all or part of his refund, you will not be able to get that amount.

If you believe that the person who owes you the arrears does not file a Maryland State income tax return, it probably is not worthwhile to apply.

If you intend to file a joint income tax return with the person who owes you the money, DO NOT apply for TRIP.

HOW TO APPY FOR TRIP

Complete the enclosed application. Do not leave anything out.

To apply you must know the taxpayer's social security number if it is not already on the enclosed application. You need not know his address.

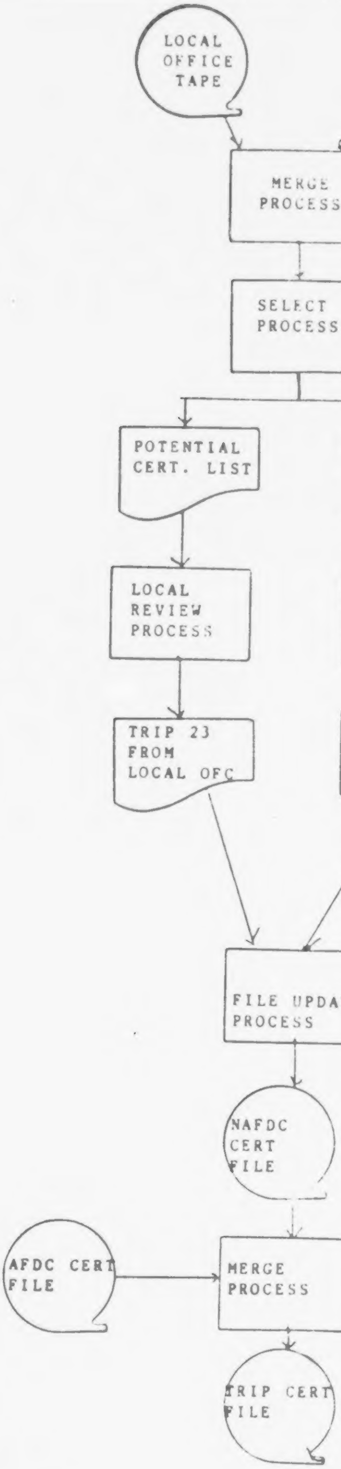
Mail the application no later than the date stated on the form.

If you have questions you may call the Tax Refund Intercept Program Monday through Friday, 8:30-4:30 p.m.

In the Baltimore, Metropolitan Calling Area, on 383-7965.

Elsewhere in Maryland, toll free on 800-492-5676.

CERTIFICATION FLOW


LOCAL OFFICE TAPE
TRIP 1
MERGE PROCESS
SELECT PROCESS
POTENTIAL CERT. LIST
OBLIGEE APPLICATION
LOCAL REVIEW PROCESS
APPLICATION COMPLETION
TRIP 23 FROM LOCAL OFC
RETURNED APPLICATION
FILE UPDATE PROCESS
NAFDC CERT FILE
AFDC CERT FILE
MERGE PROCESS
TRIP CERT FILE

[ATTACHMENT NO. 2]

[From the Evening Sun, July 12, 1983]

CHILDREN SUFFER BODILY, MENTALLY NOT HAVING ADDRESS TO CALL HOME

(By Blair Claflin, Evening Sun Staff)

For three years, a boy named Carl Cross has been waiting for the day he again will have an address of his own.

When his mother, Cheryl, was laid off from General Motors in 1979 and fell behind in the rent for their apartment, they moved in with a family friend. The overcrowding strained their welcome and the two were forced to move again—this time to a room at the YWCA Family Shelter on West Franklin Street where they have lived for the past month.

Carl is 9 years old. His life lacks the stability most children have. He missed his last two weeks of school, for example, because of the recent move.

"I know that it [being homeless] is something he will never forget," Cross said of her son's experience. "He wants to have an address. He wants to be like everybody else."

Many people associate their notion of the homeless with the men and women who wear layers of wrinkled clothes and walk the streets. But last year a far greater percentage of the homeless were children.

More than 2,250 children—two-thirds of them age five or younger—were homeless in Baltimore and surrounding counties for at least part of the year, according to a report issued recently by the Health and Welfare Council of Central Maryland. Children accounted for 20 percent of the total number of homeless in the survey.

Not only do homeless children suffer from the lack of stability, but shelter directors say they also have poor diets and need medical care.

"I think most reasonable people would agree that changing living arrangements is a really big deal for adults, and that the seriousness would be magnified for children," said Joanne Selinske, director of the YWCA shelter.

Many homeless children come from families shattered by drugs, alcohol and child and spouse abuse. The psychological damage done by those problems can only be increased by homelessness, the directors agree.

"The children who come from homes with alcohol problems or from homes where their mothers were beaten are usually the ones who show the most stress," said Patti Ann Rogucki, who oversees activities at Viva House on South Mount Street, a shelter for women and children. "They are often practically non-verbal and they are constantly clinging to their mother's dress."

Carol DeAnna, one of two professional counselors at the House of Ruth, a shelter lauded for its work with battered women and children, said the children they see tend not to trust many people and find it difficult to make friends.

Often they have been thrust into the middle of a domestic argument that eventually splits up their family and they blame themselves for their homelessness, DeAnna said.

The House of Ruth is the only shelter in the area that provides professional psychological counseling for children. DeAnna said she would like to have several months to work with children at the shelter, but most of the time she only has about two weeks.

"We see 350 children a year in the shelter," DeAnna said. "It would be a miracle if we could undo all the years of mistreatment."

More immediate and tangible problems for homeless children include a poor diet, according to Katharine LeVeque, president of the Greater Baltimore Shelter Network Inc., a coalition of private and public groups.

A transient lifestyle often doesn't allow for three balanced meals a day. And even if the homeless child's family has money—often it doesn't—the funds usually are spent on candy or snacks because the family doesn't have a stove.

She said that if money for food is hard to find, then the homeless usually cannot afford regular medical checkups for their children.

While most shelters can put a roof over a child's head, at least temporarily, and give a child two or three good meals a day, shelters can't meet all the needs of those children, especially if they have been abused.

Viva House, for example, has nine beds and two cribs, but it can shelter people for only seven to 12 days.

"They work very hard to create a warm, loving atmosphere," LeVeque said. "Please don't misunderstand me, they do a wonderful job. They do a lot of healing, but they are all volunteers."

Selinske is trying to establish services at the YMCA shelter which will help homeless children, but she does not have the resources to do the complete job.

"We are very good at providing a warm, safe, reasonably attractive place to live and three nutritious meals a day," Selinske said, "but we can do better and we will do better in the future."

At the YWCA, Selinske said, 64 families were turned away in May. She had room for only 14 new families to move in. The shortage of space and volunteers, tough zoning regulations and financial constraints all serve to slow solutions to the problem.

The Crosses say they are lucky. If all goes well, they soon will be moving into a public housing project. After three years, Carl finally would have his own address again.

CHILD SUPPORT ENFORCEMENT IN MARYLAND

MARYLAND COMMISSION FOR WOMEN

First edition November 1982

THE ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT

The Organization for the Enforcement of Child Support (OECS) is a Maryland non-profit organization which seeks to enhance the enforcement of child support. It was formed in 1979 as an educational, self-help group of volunteers. The members study Federal, State and local child support laws and procedures, monitor changes, and disseminate this information to the public through newsletters, printed literature, telephone contacts, fairs, workshops, public meetings, referrals to and from other organizations, and the media.

The Organization actively engages in a public relations program, exposing support enforcement obstacles and inequities and fostering needed changes through the administrative, legislative and judicial systems on the Federal, State and local levels of government.

OECS advocates the formation of chapters in other states as it approaches the threshold of becoming a national organization.

For further information: Telephone (301)/833-2458
(Feel free to call evenings and weekends)

THE MARYLAND COMMISSION FOR WOMEN

The Maryland Commission for Women is a statutory state agency which identifies problems, defines issues and recommends policies and solutions that would change those practices which prevent the full participation of women in today's society.

For further information: Telephone (301)/383-5608
TTY 383-6994
(8:30 AM to 4:30 PM, Monday through Friday)

CHILD SUPPORT ENFORCEMENT IN MARYLAND

Written by:
Elaine M. Fromm

Published by the
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Also to be thanked are Curtis M. Kane from the Department of Human Resources, Public Information Office, E. Dolores Street and Joan E. Williams from the Maryland Commission for Women staff.

Dedication

The problem of child support enforcement affects everyone in this Country—people of every race, creed, color, social and economic status and educational background. However, those most directly affected—the ones who pay the most—are the "non-supported" children. This booklet is dedicated to them with the hope that future efforts on their bahalf will improve their chances of, one day, receiving the full support to which they are entitled.

Preface

This booklet is intended to provide reference information on the laws and regulations governing child support and its enforcement in Maryland. Its purpose is to advise readers of their legal rights and responsibilities and to aid them in the collection of child support. To assist you in understanding the material in this booklet, there is a glossary of terms in the Appendix.

As this is a general guide, it should not be used as a substitute for the advice and assistance of professionals trained to deal with the various aspects of child support enforcement and able to deal with the unique problems of individuals.

The laws that relate to child support enforcement have in recent years been in a constant state of change on both the State and Federal levels. Insofar as possible, the materials contained herein were current as of October 1982.

I. AWARENESS OF THE PROBLEM

INTRODUCTION

All children have a legal right to be supported by their parents in a manner consistent with the parents' capabilities. However, lack of adequate child support awards, payments, and collections is a problem of major significance in this country today. Millions of children receive either partial or no child support payments from their non-custodial parents.

Only one-half of custodians are awarded child support as recently published Census Bureau statistics illustrate. In 1978 (the most recent data is from that year), only 3.4 million of the 7.1 million women with one or more children under 21 years of age in a household without the father present, were awarded and were supposed to receive child support payments. In addition, about 11% had been awarded but were not supposed to receive payments in 1978 because of a variety of reasons, such as presence of children past the age of eligibility for payments. The remaining 41% were never awarded payments for reasons such as disappearance of parents who thus avoided service of process, failure of some states to require fathers of children born "out-of-wedlock" to pay support, statutes of limitations which prevent many children from obtaining court orders, and the custodians' lack of knowledge about their rights.

Moreover, many of the women who were awarded child support payments did not receive the full amount that they were due. In 1978, only about one-half of the 3.4 million women due child support payments received the full amount, about 23% received less than what they were due, and 28% received no payment at all.[1] Consequently, only about one-fourth of the families entitled to and in need of child support receive it from non-custodial parents.

The present divorce rate is at nearly one out of every two marriages. The National Advisory Council on Economic Opportunity has predicted that "...if the proportion of the poor who are in female-headed families were to increase at the same rate as it did from 1967 to 1977, they would comprise 100% of the poverty population by about the year 2000."[2] Indeed, Census Bureau data demonstrates that, in 1978, for the 2.5 million women who actually received some child support payment, the average annual amount was $1,800. Their total money income for that year averaged $8,940. Thus, the payments constituted only about 20% of the total money income. For the 970,000 women awarded child support who received no payments, and for the approximately 3.0 million women who were not awarded child support, obviously, child support payments constituted 0% of their total money income.[3] Other Census data shows that child support payments per family do not increase in proportion to the number of children in the family (e.g., a family with four children is unlikely to be awarded four times the amount awarded to a family with one child).[4]

The non-custodian's non-payment of child support or only partial payment of the amount due leaves many custodians and their families in severe economic situations. These families cannot afford the legal costs to prosecute non-custodians who do not pay. Free legal representation is available in Maryland to a relatively small percentage of families and many of those who prosecute with private lawyer representation find their expenses to be in excess of any financial gain.

PREVENTION: ISSUES IN SEPARATION AND DIVORCE PROCEEDINGS

Obviously, the most effective way to deal with a problem situation is to prevent its occurrence. All custodians would be pleased to be able to do just that with respect to child support enforcement. In this section, you will find suggestions on handling separation and divorce proceedings which may prevent future problems from arising.

Family Mediation

One option that is available and beneficial in some cases is family mediation. Family mediation is a process in which a trained professional guides structured discussions between family members and encourages them to reach an agreement that is acceptable to all parties concerned, and with which both parties would be willing to comply. Mediation attempts to foster cooperation between the parties and sets the stage for an amicable agreement.

When family mediation is determined by both parties to be the appropriate process to engage in and a couple is able to work out their differences through the mediation process, the benefits are many. Not only is the agreement one with which they are more likely to comply, but coming to such an agreement can often eliminate the need for more costly, or lengthy, legal actions and court proceedings at a later date.

A word of caution is necessary, however, to those considering mediation. Although an excellent way of working out differences for some couples, it is not for everyone. If the custodian is significantly unequal in economic and/or emotional strength, she or he may do better with an advocate, such as her or his own lawyer, than with a mediation process. Non-lawyer mediators, also, may not consider the tax consequences in working out an agreement. Moreover, since this is a relatively new area, professionals, such as lawyers, psychologists, social workers and marriage and personal counselors, are just now learning about and involving themselves in this process.

The use of family mediation in separation and divorce proceedings has been increasing in recent years and it now is being accepted and recommended by some attorneys, judges and other professionals. If you decide you would like to learn more about this option, one way to find a trained mediator is to contact the Family Mediation Association (5530 Wisconsin Avenue, Suite 1250, Chevy Chase, Maryland 20815 301/654-7708), a private organization which makes referrals for mediators.

Choosing A Lawyer

Another way to attempt to prevent or minimize future problems with child support enforcement is to choose a lawyer with whom you can discuss your needs, and who can represent your interests in proceedings to determine all aspects of the agreement—custody, visitation, child support, division of property and other financial arrangements—in a way appropriate to your needs and enforceable with respect to the other parent.

Once you decide that legal advice is appropriate, your next step is to choose a lawyer. If you have a family lawyer, contact that person. Although she or he may not choose to take your case, your family lawyer can recommend another lawyer who specializes in domestic relations. If you do not have a family lawyer, you might seek the recommendation of friends, business associates, your minister or counselor. If you do not know the name of a lawyer you should call the Lawyer Referral Service of the Maryland State Bar Association or of your county or Baltimore City. You will be given the name of an attorney who can help with your particular problem. For a small fee, you are entitled to one consultation with the lawyer. After the first interview, the lawyer will usually charge according to her or his fee schedule.

Before you hire a lawyer, it is advisable to interview the person. This interview may be conducted by telephone or by office appointment at little or no cost. Important questions to ask are:

> "How much experience have you had in this field and how successful have you been?"
>
> "What are your fee arrangements for this kind of case?"
>
> "What about extra charges, such as secretarial fees, court costs, filing fees, etc.?"
>
> "Will you give me an estimate of the maximum cost to handle this case?"
>
> "Can you estimate the length of time it will take to complete this matter?"

Based upon the results of the interview, you should be able to make an intelligent choice of a lawyer. Remember, the lawyer will be working for you. If you do not like the terms, do not hire the lawyer. Also, if there is a disagreement about the handling of the case, you are free to hire another lawyer. However, it is best to avoid having to replace a lawyer, since beginning again with a new lawyer can significantly increase the cost of your legal services.

If a lawyer proves to be grossly incompetent or negligent, the problem may be referred to the Attorney Grievance Commission, District Court Building, Annapolis, Maryland 21401.

Consideration of Custody and Visitation

Although in the recent past the courts often awarded custody of minor children to mothers, today the law states that in the determination of custody neither parent is preferred merely because of his or her sex. Custody may go to either parent, with the decision based on the best interests of the child. The "fault" or general misconduct of a parent is relevant to the determination of custody only to the extent, if any, that it adversely affects the welfare of the child. If custody is not disputed, the parties can settle the matter by agreement. However, the court, in determining the best interests of the child, always makes the final decision on custody no matter how the parties agree. Also, custody is never final; it may be changed if circumstances change.

A number of options exist in relation to custody and visitation arrangements. When one parent is awarded custody, the non-custodial parent may be awarded very specific visitation times or the terms may be broader and more general, such as at "reasonable and appropriate times." A couple may split custody if they have more than one child and the court determines that such an arrangement is in the best interest of the children involved.

Another option being chosen by some separated parents today is that of joint custody. In joint custody situations the child may either live with each parent on an equal or split-time basis or may reside primarily with one parent. In either case, however, each parent has an equal say in and an equal responsibility for making decisions that significantly affect the child's welfare. If both parents are fit custodians, if they are willing to cooperate, if it is physically possible for the child to have two homes instead of one, and if the homes are in close proximity for school-age children, joint custody may enable the child to maintain a close and meaningful relationship with both parents. Some people believe that a parent who is a joint custodian, rather than just a visitor, may be more satisfied with his or her involvement with the child and therefore less likely to default on child support payments. Others feel that this system can hinder child support collections because the Agreement is usually general and unclear and may be a defense for non-payment. Moreover, joint custody can be raised as a defense to any kidnapping charges of one parent against the other. Since joint custody may not work in all cases, parents contemplating such an agreement should seek the advice of a counselor or lawyer.

Regardless of which parent has actual physical custody of the child, it is important to remember these facts. First and foremost, under Maryland law, both parents are responsible for the support of the child in accordance with their respective financial resources. If child support is awarded, the parent ordered to pay the support is required by law to do so. Second, that the payment of support and the right of visitation are not dependent on one another. Non-receipt of child support does not justify the custodian's refusing to allow visitation. A custodian who refuses to allow visitation may be cited for contempt and subjected to a fine or jail. Conversely, not being allowed visitation does not justify withholding support payments. Although dissatisfaction with visitation agreements is often used as an "excuse" for non-payment of child support, it is not a valid or lawful reason.

Upon petition by the custodian, under very rare and unique circumstances, the court may order restricted visitation if it is in the best interest of the child. Such an order may place restrictions upon where the child may or may not be taken by the non-custodian or may restrict overnight visits if the non-custodian's living arrangements are morally questionable.

Ideally, if arrangements for custody, visitation, and child support can be agreed upon by the parents and the courts, with all parties believing that the decisions are fair and just, a cooperative situation can develop in which each parent upholds her or his part of the agreement and intervention into the situation is not required.

Making Arrangements for Child Support

Child support payments may be incorporated into the divorce decree or may be provided for in a separation agreement. Whatever the form used to detail child support responsibilities, it is important to always consider the present and future needs of the child.

(1) Child support should be spelled out carefully in the agreement. There are obvious advantages to listing a separate amount for each child; however, where a lump sum is agreed upon for the support for more than one child, the amount will not automatically reduce when the older child reaches age 18. Additionally, child support should be listed separately from alimony or other obligations. Failure to do so may result in added taxes and in future court actions. Alimony is taxable income; whereas child support is not. Where alimony and child support are not divided, the IRS views the entire payment as alimony. Alimony ceases upon remarriage; whereas child support does not. See a lawyer or accountant about this.

(2) The agreement should also spell out, separate from the child support amounts, provisions for the medical care of each child. This should include the child's medical and dental bills and/or medical and dental insurance. Medical costs are often the most difficult problem for custodians of children to manage. For all children, including those for whom paternity must be established, it is strongly recommended that the agreement contain language to provide for the payment of all medical bills outstanding at the time of the agreement (including those for which the Medical Assistance Program—Medicaid—may have a cause of action) and that provision be made for *obtaining* and *maintaining* health insurance for each child. While some attorneys and judges may be reluctant to add this provision to the agreement for fear it may add to the difficulty in reaching settlement, others are more willing to do so. Unfortunately, to the detriment of both children and the State (which bears the cost of medical care for thousands of unsupported children), this has been one of the most neglected areas of child support.

(3) Be aware that Maryland law provides that under certain circumstances the custodial parent and the minor children may remain in the family home for up to three years and may require the non-custodian to continue mortgage payments. Provide for this in any written agreement you enter if you wish to preserve your right to it.

(4) Make provisions for child support payments from the non-custodian's estate in the event of her or his death. If the non-custodian has no will, make sure she or he drafts one. If there is a will, have it changed, if necessary. If a will cannot be executed or changed quickly, execute a "will contract" in which the parent agrees to provide for the child in the parent's will. All details concerning child support—amount, when to be paid, how long payments are to continue, how medical support will continue to be provided, etc.—should be stated clearly in either a will or a will contract. Also if there would be little money in the estate of the non-custodian, you should have the child named as beneficiary on life insurance policies and consider joint ownership of property or property in trust for your child. Think about a trust fund for the child's support, and provide for an irrevocable beneficiary clause on the non-custodian's life insurance. Also you should require the non-custodian to maintain disability insurance until such time as the obligation for child support terminates.

(5) Consider the child's education. Where possible, provide for tuition and support beyond age 18, while the child is attending high school and college.

(6) Provide for a salary lien in case the non-custodian ceases payment in the future.

(7) Include an "escalation clause," providing for an automatic or cost-of-living increase in the amount of payments when the non-custodian's income increases or when the child's need increases.

(8) Be aware of the fact that the person who contributes more than 50% of the support for the children usually may claim those children as exemptions. However, the IRS rules makes several exceptions which should be considered when making a child support agreement. The exceptions are briefly outlined here, but it is strongly suggested that you obtain and study *Tax Information for Divorced or Separated Individuals* (IRS Publication 504) for complete information.

If the parents are divorced or separated during the year and had joint custody of the child before the separation, the parent who has custody for the greater part of the rest of the year is considered to have custody of the child for the tax year.

The parent who does not have custody, or who has it for the shorter time, is considered to have provided more than half the child's support if either one of the following two exceptions applies.

First exception: You do not have custody and you provide at least $600 toward the child's support during the calendar year, regardless of the amount of support the custodian has provided. The decree of divorce or a written agreement between the parents states you can take the dependency exemption for income tax purposes. The agreement must be in writing.

Second exception: You do not have custody and you provide $1,200 or more of support for each child for the calendar year. Your former spouse does not show that he or she provides more for support. You can take the child's exemption even though the decree of divorce or separation, or a written agreement, gives the exemption to your former spouse. The parent not having custody, to qualify under this exemption, must provide at least $1,200 support for each child claimed as a dependent.

Necessaries provided in addition to the child support payments may be counted in reaching the minimum payments, but do not allow for a reduction in regular support payments. Gifts to the child (bike, TV, etc.) generally are not support and usually cannot be deducted from support payments unless both parties agree.

Support provided by a third party for a divorced or separated parent is not included as support provided by that parent. However, if you are a divorced parent who has custody of your child and you remarry, the support provided by your new spouse is treated as provided by you.

(9) If the divorce decree or separation agreement does not provide for child support, including medical support, an action may be brought later to obtain it. In this respect, child support differs from alimony because the duty to a child does not terminate upon divorce. The obligation to support one's children continues until certain terminating events have occurred. Generally, these include when the child reaches age 18, enters the armed services, becomes self-supporting, or marries, whichever occurs first. In Maryland, however, the parents of an adult, destitute, incapacitated child may be compelled to pay support if they have the ability.

(10) Child support decrees may be modified as to future payments either by the consent of both parties or by court order. Modification is allowed where there is a significant change in circumstances. Remarriage of the custodian will not terminate payments by the non-custodian unless the stepparent adopts the child. Subsequent remarriage and added financial burdens of the non-custodian will never terminate the duty to support.

CHILD SUPPORT: NOT SOLELY A DIVORCE ISSUE

There are many people who do not face their responsibilities; who do not remain faithful to their family units; and who do not maintain close relationships with their children. Those are the runaway parents who abandon their families; yet do not seek divorces or separation agreements. Runaway parents, in many instances, establish new identities and make new obligations without divorcing their previous spouses. Consequently, hundreds of thousands of children are left without emotional or financial support from their absent parents. In these cases, the responsibility of locating the absent parents, serving process, obtaining support orders, and getting the orders enforced falls directly upon the custodians (or the State, in AFDC cases).

REASONS FOR NON-PAYMENT OF CHILD SUPPORT

In spite of efforts made to foster and encourage the timely and full payment of child support, a great number of non-custodians fail to fulfill their obligations. Why would non-custodians choose not to support their children? Professor David L. Chambers, of the University of Michigan School of Law, has explored this question. In his book, *Making Fathers Pay*, he gives several reasons. (Although his book focuses on fathers, these reasons are applicable also to mothers who do not pay child support. Professor Chambers chose this title because fathers constitute the greater proportion of non-custodial parents.):

(1) Anger—Angry at their former wives, angry at judges who mistreated them in court. . .men may feel that they have few ways to communicate their feelings effectively except through non-payment.

(2) Remorse and Depression—The writing of a check is a weekly stab from the past. One avoids pain by not thinking about payments.

(3) Power—Unpredictability in payments induces anxiety in the woman and is thus a source of power for the male, assuring him at once of her dependence on him and her comparative lesser worth.

(4) Inadequacies—Arguments over money may have been a festering sore within the marriage, contributing to its dissolution. Some men may be subject to an especially strong need to repress a recollection of their financial obligations to their children.

(5) Weak Attachments to the Children—In America today, many fathers live in the same home with their children, but participate very little in their upbringing. Many men regard marriage as a contractual agreement in which the wife agrees to take care of the husband and the husband agrees to support her and her children. Upon separating, she stops caring for him. He may feel at some level that he is no longer obliged to support her or "her" children.

(6) Self-Pity—He finds himself out of the house that his salary paid for, living in an undecorated, unfamiliar apartment. Even if he recognizes

that he has, in fact, more income available to him in relation to his needs than he did when living with his wife and children, he does not feel comfortable and happy. He doesn't recall that his wife and children are struggling on a tiny fraction of the past income previously available to them.

(7) Other excuses come easily: she's not taking good care of the children; she's sleeping with "him," let "him" support her; the kids don't have to obey me any more, so what do I really owe them?

(8) Visitation—If the mother, for good or bad reasons, makes visiting with the children difficult or refuses to permit visits at all, the father may well respond by reducing payments to a trickle or cutting them off altogether.

(9) New Obligations—If he reattaches himself, and his new partner already has children, he will probably begin to support them. Or he and his partner may conceive additional children of their own. He will have expenses on behalf of children whose daily needs he sees and hears about.[5]

THE EFFECTS OF NON-PAYMENT OF CHILD SUPPORT ON THE FAMILY

Almost all of the custodians and their children who receive only partial or no child support payments are seriously affected by the absence of this income. The court, in determining the amount of the child support award, takes into account the needs of the children and the amount of support to be provided by each parent. When one parent does not provide his or her share of that support, the children's needs are often not met.

In some instances, this results in a marked lowering of the family's standard of living. National statistics on family income show that when the husband was the only wage earner in a two-parent family, the family's median income in 1979 was $18,915. The median annual income of husband-wife families in which both partners were employed was $25,290 in 1979. However, for families maintained by women, the median income was only $9,784.[6] (NOTE: The Bureau of Labor Statistics estimate for a low standard of living for an urban family of four was $10,481 in Autumn 1977.)[7]

What is even more disturbing, however, is the number of families who are at or below the poverty level because of lack of child support payments. Aid to Families With Dependent Children (AFDC) has become a reality for women and children who never dreamed they would ever be in such a situation. Yet, many women who might otherwise escape the grip of poverty are fated to remain on AFDC, because of the lack of child support payments from the father of their children.

For custodians who have no other recourse but to become AFDC recipients, the resultant situation contains mixed blessings. Indeed, when a custodian must often work more than one job to meet expenses, the strain becomes overwhelming. With children at home, child care is a major problem which often makes finding and keeping a job impossible. If the custodian qualifies for AFDC, he or she may also receive food stamps, Medicaid, subsidized housing or rent subsidies, and fuel subsidies. Also, in limited instances, he or she may qualify for free or reduced price school breakfast and lunch programs for the children, WIC supplemental foods for pre-school children, job training, transportation and child care allowances while being trained, college grants or special emergency grants.

However, State and Federal laws and regulations provide some serious disincentives for custodians to begin to receive AFDC and Medicaid (Medical Assistance). In addition to the shame and discomfort felt by many people when they have reached a financial crisis and find it necessary to receive public assistance, they also find that the laws governing the collection of child support from absent spouses and parents of AFDC recipients are focused primarily on reimbursing the State and Federal government. If a person is receiving AFDC, the services of the Office of Support Enforcement in the State are available to the AFDC recipient for the collection of child support. In that case, however, the collected child support is used to reimburse the State and Federal governments for AFDC payments. The same thing is true for Medicaid recipients. Under certain circumstances, the Medicaid program claims insurance settlement benefits as repayment for medical care provided by the program.

In order to receive public assistance, the applicant must assign all support rights to the State *including prior arrearages which have accrued under a court order*. If a court order exists for many years and the absent parent owes substantial arrearages to the custodian prior to opening the AFDC case, that part of the arrearages up to the amount of unreimbursed public assistance may be collected and kept by the State or counted as a debt to the State. What happens, however, in practice is that most local departments do not collect for the State *beyond* the arrearages established by the support order even though the State interprets the assignment to allow for the collection of *all* unreimbursed public assistance. If long standing medical bills are owed to either private providers or the State, these arrearages may have to be paid concurrent with the child support arrearages (though at a lesser rate since child support is the primary debt).

If there is no prior court order and the custodian qualifies for public assistance, she or he will be required to cooperate in obtaining a court order for support. Any arrearages accumulating under that order which are equal to or less than the total grant may be collected and kept by the State or counted as a debt to the State.

In paternity cases, the mother must cooperate in establishing paternity and support for the child in order to be eligible for public assistance; except when such action may be dangerous to the mother or child (threats of bodily harm in retaliation or emotional harm).

Under a new Federal law, if a mother remarries, the stepfather's earnings are taken into consideration in determining AFDC and Medicaid eligibility for her children.

II. ENFORCEMENT TECHNIQUES

LEGAL ASSISTANCE ALTERNATIVES

Private Lawyers

A good lawyer can provide the best enforcement services if she or he is sufficiently experienced in the domestic relations field. Such private lawyers can give as much time to the case as is necessary to do an effective job. The biggest drawback is expense. The lawyer will charge for the time required for personal interviews, telephone calls, necessary legal research, and the preparation of pleadings. Many times contempt actions handled by private lawyers cost hundreds of dollars and may result in the receipt of barely enough money to cover the lawyer's fee. If the custodian cannot afford a lawyer, the non-custodian may be ordered to pay reasonable attorney fees and court costs if he or she has the means to do so. However, it is up to the judge to decide how much, if any, of the legal fees the non-custodian may be ordered to pay if a petition is filed. Therefore, see a lawyer even if you think you are unable to afford the fees. Explain your financial condition. Ask for a reduced fee and ask about having the court order the non-custodian to pay for some or all of your legal expenses. Some lawyers will take cases on a contingency fee basis.

Legal Clinics

Services offered in a legal clinic may be less personal than those given by a private lawyer. Costs here are likely to be lower, which would be an advantage. However, if it is a large clinic and your case takes an extended time to settle, personnel changes may result in a change of lawyer in the middle of your case, which could be detrimental to your interests.

Office of Support Enforcement

Although the Office of Support Enforcement is responsible for administering support establishment and enforcement services to all children, it is severely hampered by the limitations of our State laws in providing such services to children not receiving AFDC. The following chart shows the income limitations of the non-AFDC families to qualify for support enforcement services as of 1982. The chart is revised periodically.

Family Size	Income Level
1 persons	$ 6,418
2 persons	8,393
3 persons	10,368
4 persons	12,343
5 persons	14,318
6 persons	16,293
7 persons	16,663
8 persons	17,034
9 persons	17,404
10 persons	17,774

For each additional family member above ten, add 3% to the income level for a family of ten.

Services available from the Office of Support Enforcement are:

(1) Receipt, disbursement, and record-keeping of child support payments.

(2) Absent Parent Location.

(3) Referrals to State's Attorney's Offices and other enforcement agencies.

(4) State Tax Refund Intercept Program, Federal Tax Refund Offset Program (not yet available for non-AFDC persons), and Unemployment Intercept Certifications.

(5) Establishment of support orders by consent, when possible.

(6) Enforcement.

(7) Referrals to IRS for collection services.

State's Attorney

The State's Attorney is the prosecutor in criminal non-support, paternity and URESA cases. The State's Attorney also provides legal services in civil proceedings for child support cases referred from the Office of Support Enforcement in most counties and Baltimore City. Many of these offices have one or more attorneys who have expertise in the establishment and enforcement area.

Legal Aid Bureau

The Legal Aid Bureau provides statewide services to low income clients in selected cases, as determined in the local offices. It primarily deals with domestic cases (involving children), housing issues, consumer law, and cases affecting Federal and State benefits. If a client is financially eligible, there is no fee. The Legal Aid Bureau's income limitations are similar to those of the Office of Support Enforcement. The locations and telephone numbers of the Legal Aid Bureau, Inc. in your area are listed on the following page.

Central Candler Building, 7th Floor, 714 E. Pratt Street, Baltimore	539-5340
Allegany County (Cumberland)	777-7474
Anne Arundel County (Annapolis)	263-8330
Baltimore County (Towson)	823-7666
Calvert County (Prince Frederick)	535-3278
Carroll County (Westminster)	848-4669
Cecil County (Elkton)	398-5544
Charles County (LaPlata)	932-6611
Frederick County (Frederick)	694-7414
Harford County (Bel Air)	836-8202
Howard County (Columbia)	992-0660
Montgomery County (Rockville)	588-7367
Prince George's County (Mt. Rainer)	277-8777
Queen Anne's County (Centreville)	758-2543
St. Mary's County (Leonardtown)	884-5935
Washington County (Hagerstown)	791-2499
Wicomico County (Salisbury)	546-5511

Representation In Proper Person

Some Clerks of the Court provide forms and instructions to the public for filing enforcement proceedings without the service of a lawyer. If your court clerk does not provide this service, it is still possible to represent yourself (In Proper Person) in court. The Annotated Code of Maryland, Maryland Rules of Procedure, and sample forms may be found in public libraries and law libraries. Refer to *Maryland Domestic Relations Forms* by Ann Turnbull and Joseph Wase (see Suggested Reading Section in Appendix) for a clear explanation of the law and sample forms of pleadings. There are time limitations mandated by State law for filing various forms. When pursuing your case In Proper Person, it is imperative that you research the Maryland Rules of Procedure, familiarize yourself with those deadlines, and be prepared to take action within the prescribed time frame. In understanding and researching the law, check the pockets in the back of the Annotated Code for recent changes in the law.

Sections of the Annotated Code to read include: Article 16-Sections 5B, 5C, 28, and 66; Article 27-Section 88; Article 72A-Section 1; Article 88A-Sections 48 and 59; and Article 89C. Also review Chapters 100 through 800, and the F, P and S Rules in Chapter 1100 of the Maryland Rules of Procedure.

Forms with which to become familiar are: Petition for Contempt, Show Cause Order, Petition for Hearing, Petition for Modification, Expense Sheet, Petition for Wage Lien, Petition for Garnishment, Petition for Money Judgment, Prayer for Relief, Motion for New Trial, and Petition for Rehearing.

Representation In Proper Person should not be considered if you have other legal alternatives. It should be used only as a last resort, since it may put you at a disadvantage in cases where you may be opposed in proceedings and in court by a lawyer representing the other party.

COLLECTION METHODS AND DETERRENTS

There are two court systems to which one can turn for redress: Criminal and Civil. It is possible for civil litigation and criminal prosecution to proceed at the same time. Therefore, it may be best to pursue both remedies. Ask your lawyer or the State's Attorney's office what you should do. But remember that the State's Attorney's office, while able to handle your criminal case, can only handle your civil case if your children receive AFDC or you qualify for non-AFDC services pursuant to the income eligibility levels outlined on page 12. The State's Attorney will handle URESA and paternity cases, which are civil, but will not handle separation or divorce proceedings. The Legal Aid Bureau will handle such cases, if you qualify.

Civil Enforcement

Wage Lien

In a Civil case a wage lien may be requested when the person ordered to pay support is more than thirty days behind in payments. No contempt need be found. The Civil lien is good for at least twelve months (longer if the arrears are not paid up). Maryland's wage lien law only applies to cases in which the obligor resides in Maryland. If the obligor resides in another state, check to see if that state has a wage lien law.

Garnishment

Garnishment is a remedy used to attach a portion of a debtor's income to satisfy a debt, including settlement of arrearages in child support cases. There are limitations, however, on the amount of a debtor's income that can be taken through garnishment. The garnishment affects all earnings except Federal employees workers' disability benefits and includes annuities, pensions, Social Security, non-Federal disability income, unemployment compensation, railroad retirement, Individual Retirement Accounts (IRA's), wages and retirement of armed services personnel, and Federal employees' wages and retirement.

Judgment

This is an order giving the Plaintiff the right to attach the respondent's assets to collect the obligation. The Plaintiff may ask the court to file the judgment, as a lien, in the Circuit Court of any county where the debtor has real estate, a bank account, car, land or land interest and/or any other tangible assets. The judgment may be set at the amount of arrearages plus interest.

Judgment also can be used to secure a voluntary wage lien or lump sum payment. A debtor faced with imminent loss of a valued possession may tend to be more amenable to an agreement or payment of arrears by other means.

If a money judgment is awarded, after a 30-day appeal period it becomes a final recorded judgment. The judgment can then be used to obtain a Writ of Fi Fa (property attachment—pronounced Fī Fā). The clerk of the court provides this form. Upon receipt of a court fee and the completed form, the clerk issues the Writ. Then the Sheriff can physically attach the property of the debtor. The person obtaining the Writ must pay the storage and auction costs.

Property which is titled as Tenants by the Entirety (jointly owned by husband and wife) is judgment-free and cannot be attached unless the judgment is against both. Property which is titled as Tenants in Common or Joint Tenants (even husband and wife) or in the non-custodian's name only *can* be attached. If a house is to be attached, the land records must be obtained from the county first. The Sheriff can force the sale of the house.

Jail: Work Release (Minimum Security)

In some prison facilities, under the Department of Corrections and certain local correctional programs, a program known as "Work Release" is operative. The program enables a prisoner to take a job in private industry, leave his prison quarters in the morning and return for the night. Her or his wages are paid to a prison official, who credits the inmate's account. Deduction is made for room and board and for petty cash allowance. The balance is payable to the inmate upon his departure from the facility.

When there is a court order for support, the correctional facility should be notified and the matter referred to Court where a judge, upon receipt of the details of the case, can modify the order and/or authorize the correctional facility to deduct the amount of the support order from the inmate's wages and forward that amount to the Office of Support Enforcement or to the custodian.

If the inmate fails to return to jail, he or she becomes a fugitive and is subject to criminal arrest.

Suit for Breach of Contract (if you have a written child support agreement)

An agreement, if properly written and executed, is a contract. Failure to pay child support, including medical support where specified, is a breach of contract and a court may enter a money judgment for unpaid arrearages and also order that payments be made in the future. This method requires actual damages beyond the non-payment, such as loss of credit rating. The statute of limitations on contracts is usually three years; but if the Agreement is incorporated in the Court Decree, or if the signatures are followed by SEAL, the time limitation is twelve years.

Suit for Specific Performance (if you have a written child support agreement)

An Equity petition may be filed to enforce the contract for child support or medical support, where specified. This is most effective where no court order for support exists, but can be used in lieu of a contempt action. As an equity matter, the action is subject to laches. That is, if the non-custodian has been prejudiced by an unreasonable delay in filing, the petition will not be honored. By this method, the Court can invade a spendthrift trust created to protect the non-custodian.

Action at Law for Necessaries

When extraordinary necessary expenses arise that exceed the normal child support amount, the custodian may do either of two things if the non-custodian refuses to help: (1) The custodian may pay for the necessary and bring an action at law against the non-custodian. The court may order reimbursement for any amount paid that was in excess of the payor's share of the expense. (2) The third party involved (doctor, dentist, etc.), may be asked to bill both parents. If not paid, the third party can bring an action at law against both parents and get a judgment for each parent's share of the expense. (Today in Maryland, the parents share the responsibility for child support in accordance with their respective financial resources).

Writ of Ne Exeat

If it can be shown that the non-custodian is preparing to leave the State, and arrearages exist, the custodian may petition the Court for a Writ of Ne Exeat. This Writ orders the non-custodian *not to leave* the State. A bond must be posted, usually in the amount of the arrearage. If the non-custodian then leaves the State, the bond may be forfeited and the money turned over to the custodian.

Contempt of Court

A Petition to Cite for Contempt is the most commonly used method of civil enforcement of child or spousal support. It may be filed by anyone having direct knowledge that the support order is not being obeyed. Contempt cases are usually heard by a Master, who then recommends an appropriate action to the Judge. Contempt in child support cases is constructive civil contempt. That is, it occurs outside the courtroom and is not criminal in nature. As such, it is punishable by a citation for contempt, fine, imprisonment for an indefinite time, or an order to pay up the arrearages, either within a set time, or by an addition to the regular payment.

Where jailing is ordered by the Judge, the sentence must allow for "purging," i.e., freedom upon payment of all or a good part of the arrearages. Arrearages in contempt cases are based on the amount owed on the hearing date, rather than the petition date. Judges are reluctant to impose a jail sentence upon a first offender. Some people, however, feel that short-term jailing is an effective tool in collecting arrearages, not only from the person jailed, but also from others, who may hear about it through the news media.

To be found in contempt, the non-custodian must have had the ability to pay when she or he defaulted. Quitting a job without a new one or voluntarily changing jobs to one which pays less is no excuse. However, closing a business in order to retire is not contempt, if the non-custodian is of normal retirement age.

A person found in contempt *may* be precluded from filing for modification or other counteractions, in the discretion of the Chancellor, at least until the contempt is purged.

If a contempt petition has been filed, but has not gone to a hearing, either because service of process was not obtained or because of an indefinite postponement, it should be *revived* rather than a new petition being filed. The Maryland Court of Appeals has viewed the new petition as an abandonment of the older one; which may mean losing any arrearages if the prior petition is more than three years old when the new petition is filed.

If there is no previous court order or decree, contempt of court is not available as a remedy. *Contempt actions have a three year statute of limitations in Maryland.*

Some Advantages of Contempt Proceedings

1. Collection of arrearages by civil contempt can be enforced up to three years prior to the institution of contempt proceedings.
2. A Circuit Court order for support is permanent until the child is emancipated and this order does not have to be renewed.
3. Proceedings in Circuit Court are usually handled by a lawyer hired by the custodian. This generally increases the custodian's control over the proceedings.
4. A finding of contempt may result in jailing for an indefinite period until the offending person purges himself or herself of the contempt (usually by paying part or all of the arrearages.)
5. The standard of proof for civil proceedings only require a preponderance of evidence.

Some Disadvantages of Contempt Proceedings

1. Court costs and lawyer fees can make proceedings costly, unless the court orders the non-custodian to pay a portion of the costs.
2. Service of process in Circuit Court cases is usually difficult and nearly impossible in some cases, but private process servers can be hired or anyone over 18, not a party to the action, may serve process.
3. It often takes a long time to have a hearing scheduled and the matter disposed of.
4. A Body Attachment can only be issued after service of process has been made and the non-custodian has failed to appear.
5. The time allowed in which to file a contempt charge is limited to three years from the date of default.

Criminal Prosecution

Criminal Non-Support

Article 27, Sec. 88 of the Annotated Code of Maryland makes the willful failure to support a spouse or child a misdemeanor punishable by a fine of up to $100 and/or a jail term of up to three years. It has a one year Statute of Limitations.

To file criminal non-support charges, one must appear before a District Court Commissioner and swear out a complaint, under oath. Because some counties require a screening by the State's Attorney's Office, it is advisable to call the Commissioner or State's Attorney's Office before visiting the Commissioner's office. In filing a Criminal Action, the custodian has a choice between requesting a warrant or a subpoena. Once a Criminal Action has been entered, the custodian should not stop the action, since he or she could be subject to a suit for abuse of process.

As an alternative to sentencing, the defendant may be placed on probation for three years upon condition of paying support in an amount set by the Court. Where there is a support agreement between the parties, the Court can order that amount. Failure to pay is a violation of the probation, and upon conviction of the violation, the defendant either stands trial on the criminal non-support charges or is sentenced, as the case may be.

The statute allows for a lien on earnings from the date of the support order. However, judges are sometimes reluctant to impose a lien at the beginning of the order. It is more likely to be imposed upon a finding of violation of probation.

Some Advantages of Criminal Prosecution

1. Action is in the form of criminal prosecution, which is handled by the State's Attorney at no cost to the claimant.
2. The case normally would proceed faster, service of process would be more effective, and a subpoena could be issued for any records, etc.
3. No prior order is needed to file a criminal action. It can be put on the FBI interstate computer through the local police department.
4. If a warrant is issued, authorities in other jurisdictions may be alerted so that locating and arresting the offender could be speeded up substantially. If the non-custodial is arrested on other charges, the warrant file is checked out.
5. The stigma of a criminal conviction may prompt many of the offending parents to start supporting their children.

Some Disadvantages of Criminal Prosecution

1. If the non-custodian pays a fine or serves time in jail for non-payment of a criminal support order, the criminal conviction may result in wiping out arrearages which have accumulated under the criminal order. If he or she serves the whole sentence or gets paroled before completing the sentence, the court may reduce, change, or modify the order.
2. Sentences may be shortened by prison officials without notice to the custodian. When the non-custodian is released, the custodian is responsible for reopening the case.
3. Imprisonment usually eliminates or reduces a person's income. Therefore, imprisonment can have the unfortunate effect of making it even more difficult for an incarcerated parent to pay child support.
4. The court order is effective only for a maximum of three years and must be renewed for each additional three-year period.

5. Criminal conviction may affect employment in some occupations.
6. Criminal action for non-support must be taken within one year of the date of the offense.
7. The standard of evidence required for conviction is that of beyond any reasonable doubt.

ABSENT PARENT LOCATION AND SERVICE OF PROCESS

There are a number of ways to locate absent parents, either by yourself or through Absent Parent Locator Services. The Motor Vehicle Administration has addresses of all Maryland drivers and vehicle owners on file. These records are open to the public for viewing free or may be obtained by mail for a small charge.

You can check with any labor union to which the absent parent may belong. If you can get access to credit bureau information, you may find an address plus a list of attachable assets. Also, if the absent parent's phone number has been obtained by the custodian but is unpublished, the court may get the address from the police department's crisscross telephone directory.

Sometimes a phone call to an employer will help in the location of an absent parent. Simply say, "I wish to verify employment."

Once the absent parent has been located, the next step is service of process. Maryland law requires that an individual must be informed of the charges filed before an order can be issued. No remedy is available unless the individual has been personally served with a Show Cause Order or Subpeona or has been arrested under a warrant or body attachment.

If the absent parent lives in another state and owns property in Maryland, the papers can be served by tacking them on the door of that property. If the absent parent is not in the military and does not file an answer to the complaint, the custodian can seek a default judgment. If the non-custodian resides in Maryland, he or she must be personally served. A person may be served at the workplace. Anyone over the age of 18 who is not a party to the case may serve the papers. Proof of service must be presented to the Court directly by the person who served the papers, or by a notarized affidavit signed by the individual who affected service.

A Criminal Complaint for Non-Support may be filed through the State's Attorney's office or, in certain jurisdictions, through the Domestic Relations Division. A warrant will then be issued for the arrest of the absent parent. If the absent parent is stopped or picked up for any other reason, even a traffic violation, the warrant file will be checked out. The warrant can also be put on the FBI interstate computer.

OTHER FACTS ABOUT ENFORCEMENT PROCEDURES

The Custodian's Responsibility

The major responsibility of the custodian is to provide accurate information to all people involved in the case, and to keep the court, the Office of Support Enforcement, lawyers, etc. appraised of changes in circumstances as they occur. In addition, it is important to know that talking with or visiting a Support Enforcement Office, a lawyer, or administrative personnel does not constitute legal action. The custodian must be sure that the necessary forms have been filed with the court which has jurisdiction over the case and the court has served (or attempted to serve) notice within the time limitations. Also, where appropriate, the custodian should be aware that a body attachment or warrant has been issued and the Sheriff's office has attempted to pick up the non-custodian.

Motion for Rehearing

If a judge has clearly erred in a decision, or if there is new evidence which was not available at the time of the hearing to be offered to the court, it is possible to request a Rehearing. The request must be made within 30 days. Grounds must be stated. If a master errs, you can either request a Rehearing or request a hearing before a judge.

Motion for a New Trial

If a Petition for Rehearing is denied by the judge, a Motion for a New Trial may be entered if there are sufficient grounds. A request may be made to have a different judge, but this could be refused. A judge is not required to give up jurisdiction. The Judicial Disabilities Commission investigates serious complaints against the behavior of judges.

Appeals

The appeals process is only used for a legal issue, such as a finding of contempt. It is not used in determining amounts of money.

PATERNITY DETERMINATION

According to a 1980 publication "Techniques for Effective Management of Program Operations":

> "In the United States, the rate of illegitimate births is increasing and currently exceeds 15 percent of all births. One-third of all children receiving assistance under the AFDC program are born out of wedlock. Unless paternity is established, and the father is ordered to pay child support, the entire cost for providing these children with the necessities of life falls directly upon either the mother or the taxpayer.
>
> Support is only one consideration. The determination of paternity opens

the possibility for the child to claim many other rights. Inheritance, social security, workers-disability, tort claims, and the like, which a dependent normally claims through either parent, may become available once paternity is established. Though not assured, there is even the chance of a real relationship developing between the father and the child."[8]

The new HLA blood and tissue typing tests are quite accurate. These modern sophisticated blood tests allow many paternity suits to be settled out of court, since a man faced with evidence of 98% probability from the HLA tests usually recognizes that he is the father.

The court's procedure is to dismiss paternity proceedings where blood tests exclude the respondent. The court decides who must pay for the test. An individual accused of paternity may ask for a jury trial.

In Maryland, a woman must begin paternity proceedings no more than two years after: a) the birth of the child, b) a written acknowledgement of paternity by the father, or c) the last support payment. If the mother is under age 18, the two-year statute of limitations begins when she becomes 18. The State's Attorney, the custodian or the respondent may request a blood test.

In Maryland, the father of a child born out of wedlock may be required to contribute to the medical support of the child, including neonatal expenses. Also, he may be required to pay all or part of the mother's medical and hospital expenses for her pregnancy, confinement, and recovery, for the funeral expenses if the child dies, and the counsel fees of the attorney representing the mother.

Once paternity is established, the parties may enter into a Voluntary Agreement for Support and Maintenance setting out the rights and obligations of each party. A lien on earnings may be imposed from the date of the order. If custody is denied the putative father, visitation may be established for him.

MODIFICATION

The amount of child support due under a court order is always subject to review upon petition to the court. The primary considerations are the needs of the children and the capability of the non-custodian to provide support. The court is not required to make a change even if the non-custodian and custodian have agreed to a new amount if the court feels that the needs of the children will not be met.

Either party may file a petition for modification. Usually the non-custodian requests a reduction or the custodian seeks an increase.

The most commonly listed reasons for a modification are:

1. A significant change in the income of either party. (However, a reduced income caused by purely voluntary acts is not usually allowed.)
2. A significant increase in expenses of the custodian in raising the children. These include: a) unforeseen chronic medical, dental, or mental health needs; b) special training or schooling to meet special needs or to develop special talents; c) increased age and size causing increased expenses in clothing, recreation, food, etc.

3. Loss of medical insurance for the child or children by either the non-custodian or the custodian through involuntary action on either's behalf (e.g. being laid off, etc.).
4. Inflation. This is more persuasive where the support order is older, and thus could not have contemplated the inflation rates of recent years. That is, a 1970 order is easier to change on this basis than a 1980 order.
5. Increased expenses of the non-custodian. However, where these are voluntary expenses, such as a more expensive house or apartment, or a high-priced automobile, they are not persuasive. Also, the expense of a new spouse and new child are often looked upon by the courts as voluntary.
6. A decrease in earning capacity due to disability. This can be persuasive, unless there is significant investment income.

Combinations are more persuasive than single reasons. An increase or decrease may be granted retroactive to the date that the petition to increase or decrease was filed.

TERMINATION

The parental obligation to pay child support ends for any child upon the emancipation of the child. This occurs upon the earliest of these events as relates to the child: (a) death; (b) marriage; (c) becoming self-supporting; (d) eighteenth birthday; or (e) entering the armed services. However, if the child is destitute and is not capable of being self-supporting because of mental or physical disability existing on the eighteenth birthday, the support continues until the disability ends or the child becomes self-supporting.

Where a support order lists one amount of support for all the children, the amount does not reduce in proportion automatically upon the emancipation of each child, but continues at the total figure until all children are emancipated, unless modified. Where an amount is awarded on a per child basis, it does automatically reduce upon emancipation of each child.

Where emancipation occurs prior to the child's eighteenth birthday, if the parents cannot agree that child support has terminated, it is wise to petition a court and have this issue resolved. If arrearages are owed, it is best to have the order continue the total payment at the same total amount until the arrearages are paid off.

The obligation also terminates upon the death of the non-custodian. If arrearages are owed, the custodian should submit a claim to the estate and should seek an order setting arrearages due. It is recommended that an attorney be consulted in such cases.

III. GOVERNMENTAL INVOLVEMENT

INTERSTATE ENFORCEMENT OF SUPPORT

Uniform Reciprocal Enforcement of Support Act (URESA)

URESA provides the opportunity for a custodian to file a petition in his or her home state. It is sent to the court of the state in which the absent parent lives, which then dockets the petition and notifies the local prosecutor to serve the non-custodian. The case is then carried on between the two courts. URESA has been adopted by all of the states and several territories. Also, Maryland provides reciprocal enforcement of support orders with some foreign countries, including England, Germany and France. An agreement with Canada requires each state to agree with each province.

Under a normal URESA proceeding, a petition is filed in the state of the custodian and sent to the state and county of the non-custodian. Prepared testimony of the custodian is included. After service, a hearing is held and a support order is created in that state. The amount may be more, less, or the same as the existing order. Once established, it is enforceable as any other support order.

In Maryland, as in most states, the State's Attorney represents the custodian. The Petition must include the street address of the non-custodian's home or job, and income and expense information on both the non-custodian and custodian. It may include a photo, physical description, aliases, social security number, or other data that could aid in locating and identifying the non-custodian.

When a support order exists, URESA allows the choice of registering the support order in the state of the non-custodian. Once registered, the order is treated as though it is an order of that state's court. Because the amount of support is not changed by this method, it should be considered where the amount of support is high.

Although the goal is uniform enforcement across state lines, states have adopted various amendments to URESA or dropped whole sections from the version that was first adopted. In many cases, avenues for prosecution are closed because of the differences in the laws of each state. Some states do not recognize arrearages already due in URESA petitions and some do not recognize alimony.

Since the problems involved in interstate enforcement of support are so complicated, it is always better to avoid the use of these statutes if you have a choice. For example, if the parents live in neighboring states, or counties within a state, it might be wise to travel to the other jursidiction, if possible, to handle the case personally and simultaneously within the same courtroom. If it is financially possible and the time can be arranged, handling the case in the non-custodian's jurisdiction can greatly expedite the proceedings by eliminating the need to get involved in the URESA process.

Long Arm Jurisdiction

Long arm statutes have been used for some time in cases of auto accidents or business disputes when one party resides outside of the state where the claim arose. Recently, states have been increasing their long arm statutes to include divorce, child support, and paternity matters and to establish power over spouses who desert their families and fathers of illegitimate children who flee the state. The State of Maryland has such a statute.

Extradition

If a non-custodian flees the state or county to avoid payment or prosecution, he or she can be extradited back to the original jurisdiction under criminal charges. This is a costly method and, therefore, seldom used. Since non-support is a misdemeanor, extradition from other states is not generally used. It is usually reserved for cases involving felony charges.

GARNISHMENT OF MILITARY PAY

Federal law authorizes legal process against the United States Military Forces for garnishment of pay to collect child support (and alimony) arrearages. This law provides a limit of 50% on the amount which is subject to garnishment, or similar process, for child support (and alimony) for a person supporting a second family and 60% for a person who is not. The percentages are increased by an additional 5% in each situation if there are outstanding arrearages more than 12 weeks old.

The military creates no remedy for garnishment. A garnishment order may be obtained through the State court and served to the proper military officials—either by certified or registered mail or personal service. The process, preferrably in triplicate, must demonstrate that collection is sought for child support (or alimony, or both). It must also show the non-custodian's Social Security number, date of birth, branch of service, rank or grade, and the name and location of current duty status, if known. It must also indicate whether the person is retired; is in reserve, National Guard, or active duty; or is a civilian employee.

In addition you must also serve the following documents: 1) a copy of the original order, judgment, or decree and of any modifications, including URESA orders; 2) a copy of any pleading for arrearages and a copy of any order resulting therefrom; 3) any pleading, affidavit, or application requesting garnishment process; and 4) the supporting execution, if any. The documents are to be served to the applicable branch of military service, as follows:

Commander
U.S. Army Finance and Accounting Center
ATTN: FINCL-G
Indianapolis, Indiana 46249

Commander
Air Force Accounting and Finance Center
ATTN: JA
Denver, Colorado 80279

Commanding Officer (Code AA)
Marine Corps Finance Center
Kansas City, Missouri 64197

Commanding Officer
Navy Family Allowance Activity
Department of the Navy
Cleveland, Ohio 44199

TITLE IV-D

Title IV-D is an amendment to the Federal Social Security Act. It was enacted by Congress in 1975 in an attempt to relieve the taxpayers of the burden of supporting children who are not receiving support from their absent parents and was intended to be an incentive to the states to widen their scope of work in the field of child support enforcement.

IV-D regulations require that the State enter into agreements with the political subdivisions for the purpose of locating absent parents, establishing support orders, enforcing the support obligations owed by absent parents to their children, and establishing paternity. It was the intent of Congress that the States provide these services for all children. Maryland offers these services to AFDC recipients and to non-AFDC families whose income is less than one-half the state median income.

Federal Parent Locator Services are available to custodians in efforts to locate absent parents upon payment of certain fees.

Recent amendments to Title IV-D require that in any case in which child support and spousal support payments are owed by a member of the armed services on active duty, the member shall be required to make allotments from his or her pay and allowances when he or she has failed to make periodic payments under a support order and the resulting delinquency is a total amount equal to support payable for two months or longer.

TITLE XIX

Title XIX is another amendment to the Federal Social Security Act. It was enacted by Congress to provide needed medical care for the poor, including unsupported custodians and their children. Nationally, it is known as Medicaid or Title XIX and in Maryland as the Maryland Medical Assistance Program (MA). All states except Arizona have similar programs though their names may differ. Medical regulations provide that the states establish "third party collection units" to recover Medicaid payments from other sources when appropriate, and thus reduce the burden of Medicaid costs to the taxpayers. Parents are included as "other sources," as are insurance benefits. In Maryland this third party collection unit is known as the Division of Medical Assistance Recoveries (DMAR) of the State Department of Health and Mental Hygiene (DHMH). Within its Legal Liabilities Section, there is a Paternity-Child Support specialist whose duty it is to interact with the Office of Support Enforcement (IV-D), the State's Attorney's Offices and the Courts to try and get medical reimbursement court ordered to the MA Program as part of paternity and child support actions, and to try to get the obligation of parents to provide medical insurance, where feasible, court ordered, thus lessening the debt and obligation of the MA Program. This effort has expanded tremendously since 1976 and will continue to do so.

There are also instances in which other specialists in DMAR become involved with insurance settlements and other income of custodians, non-custodians, and children receiving MA. Some of these cases are AFDC and some only involve the MA Program. In many such cases, payments collected go to the Division of Medical Assistance Recoveries to reimburse the Program for its payments rather than to the custodians, non-custodians or children. Therefore, whenever feasible, the custodian should seek (on her or his own or with the assistance of the non-custodian) to obtain any commercial insurance (especially low-cost employment related group insurance) reasonably available. Payment of medical bills by the MA Program should be looked on as a last resort, with the knowledge that some repayment could be required. While both Federal and State laws acknowledge the primacy of child support over medical support, Title XIX regulations encourage the States to maximize recovery through entering into cooperative agreements with IV-D agencies, local governments, prosecutors, enforcement and collection units, etc. as appropriate. Follow-up enforcement with regard to medical reimbursement is encouraged.

RECENT GOVERNMENTAL INNOVATIONS

Tax Refund Intercept program (TRIP)

This program allows the State Income Tax Division to intercept Maryland income tax refunds due to non-custodians who are at least 60 days in arrears in child support payments and to pay these monies to the State or to the custodian. This program is available to both AFDC recipients and to those persons not receiving AFDC whose child support payments are made through the State system.

Tax Refund Offset Program (TROP)

This program, which is only available in AFDC cases, allows the IRS to intercept federal income tax refunds, due to non-custodians who are at least $150 or three months in arrears in child support payments, and to pay these monies to the State where the obligation is due. Legislation has recently been introduced to extend TROP to non-AFDC cases, as well. However, it has not yet been enacted.

Unemployment Intercept

Unemployment benefits are now being intercepted in cases where the unemployed non-custodian has agreed or the court has ordered a lien. This program is available in AFDC and non-AFDC cases where the child support payments are made through the State system.

Internal Revenue Service

The State may apply for the IRS full collection process to collect child support in AFDC and non-AFDC cases after all other collection means have been attempted. The IRS may enforce a levy for child support obligations against income or assets of the non-custodian. Property may be seized and sold for payment of the delinquency. The IRS charges $122.50 as the fee for this service. For further information, contact your county child support agency.

Bankruptcy Rule

Child support obligations are not dischargeable in bankruptcy if there is a legal separation, divorce decree or property settlement.

MARYLAND'S 24 JURISDICTIONS: DIFFERENCES IN OPERATION

There are 24 jurisdictions in Maryland (23 Counties and Baltimore City) each with a slightly (or, in some cases, drastically) different way of handling child support cases and medical support cases. Child support in Maryland is State-administered and State and locally-operated with court agencies contracted to perform certain functions. In most jurisdictions the State's Attorney is the law enforcement official responsible for initiating action to establish paternity and establishing and enforcing the support obligation. In Baltimore City and Anne Arundel County the Domestic Relations Divisions, each a part of the Circuit Court System, also renders these services. In Montgomery County, it is part of the Clerk's office. In Baltimore County, collections are made by the Support and Custody Division of the Probation Department.

The Office of Support Enforcement in local social services departments usually performs the location of absent parents, and the collection function: that of receiving and disbursing money paid by non-custodians to the proper payee—whether it be the non-AFDC caretaker relative, other person, or to a state agency with assigned rights to the money. However, this may not be the case in all of Maryland's local jurisdictions. Contact a person from your county's court clerk's office or department of social services before you begin this process and ask for an explanation of how the system works in your particular jurisdiction.

IV. CONCLUSION

The non-support of children affects families of every race, creed, color, social and economic status, and educational background. When children are denied support, they are likely to suffer grave hardship, such as lack of sufficient amounts of food and clothing, substandard housing, inadequate medical care and lack of adequate parental supervision, since the custodian must often work long hours in order to try to make ends meet to pay the families' bills.

Moreover, the children who are unsupported by their non-custodians are not the only ones who lose. Lack of adequate child support payments and enforcement is a problem all citizens share. When non-custodians do not support their children, tax dollars do. The total AFDC benefits paid to Maryland families in 1981 were $459,000,000.[9] Over 80% of the families receiving AFDC are eligible because a living parent is absent from the home.[10]

The overall complexities of child support enforcement laws and procedures often cause stumbling blocks in the paths of all parties. The various intricacies, impediments, stipulations and loopholes serve to prevent adequate utilization of the available enforcement methods and, even when used, often prevent benefits actually accruing to custodians and their children.

We hope, with this booklet, to help custodians of children in their efforts to collect child support to which they are entitled. Further, it is our hope that examination of the intricacies of the system will encourage administrators, lawmakers, and advocates to continue working to improve and simplify child support enforcement laws and procedures for the benefit of the non-supported children of the State of Maryland.

FOOTNOTES

[1] *Child Support and Alimony:* 1978, Special Studies Series P-23, No. 112 Current Population Reports, U.S. Department of Commerce, Bureau of the Census, September 1981, pg. 1.

[2] *The American Promise: Equal Justice and Economic Opportunity,* National Advisory Council on Economic Opportunity, U.S. Government Printing Office, Washington, D.C., 1981.

[3] *Child Support and Alimony:* 1978, op. cit., pg. 8.

[4] *Divorce, Child Custody and Child Support,* Special Studies, Series P-23, No. 84. Current population Reports, U.S. Department of Commerce, Bureau of the Census, June 1979, pg. 3.

[5] David L. Chambers, *Making Fathers Pay,* Chicago: The University of Chicago Press, 1979, pp. 73-75. (NOTE: Excerpts reprinted from *Making Fathers Pay* by Permission of The University of Chicago Press. Copyright 1979 by David L. Chambers. David Chambers is a Professor of Law at the University of Michigan Law School.)

[6] *An Overview of Women in the Workforce,* National Commission on Working Women, Center for Women and Work, 1981.

[7] *Economic Responsibilities of Working Women,* U.S. Department of Labor, Office of the Secretary, Women's Bureau, September 1979, pg. 1.

[8] *Techniques for Effective Management of Program Operations,* TEMPO #4, U.S. Department of Health, Education and Welfare, Office of Child Support Enforcement, April 15, 1980, Introduction.

[9] *Sixth Annual Report to the Congress for the Period Ending September 30, 1981,* U.S. Department of Health and Human Services, Office of Child Support Enforcement, December 31, 1981, pg. 53.

[10] *Ibid.,* pg. 1.

V. APPENDIX

Information Check List

Fill in the following information for your case and keep it in a safe place for future reference. Do not lose the non-custodian's Social Security Number.

Non-Custodian:

Social Security Number: ______

Physical description: ______

______

______

Birthdate: ______

Union Memberships: ______

______

Place of business: ______
(address)
______
(phone)

Other Descriptive Information: ______

______

______

Known Hangouts: ______

Divorce Decree or Court Order Information:

File number: ______

Docket: ______

Folio: ______

Court: ______

Where to go for help:

Absent Parent Locator Unit: ______

State's Attorney: ______

State Office of Support Enforcement: ______

Local County Support Agency: ______

Private Attorney: ______

Support Enforcement Officer: ______

State Division of Medical Assistance Recoveries: ______

______

Glossary of Terms

ABSENT PARENT: A parent who no longer resides with the children.

ADMINISTRATIVE PROCEDURE: A method by which support orders are made and enforced by agency personnel, rather than courts or judges.

AFDC: Aid to Families with Dependent Children (welfare). NON-AFDC: Non-welfare.

APLU: Absent Parent Locator Unit.

ARREARAGES: Monies past due and owing under an Agreement or a court order.

ASSIGNMENT OF RIGHTS: A recipient assigns all of his or her support rights to the State in exchange for receipt of the AFDC grant and other related benefits.

BODY ATTACHMENT: Proceeding by which a person is retained in accordance with a directive of a civil court to secure payment of a judgment.

CIRCUIT COURT: The trial court for domestic relations matters, and in some subdivisions, also for criminal non-support cases.

CIVIL ACTION: Suits or actions instituted to compel payment or some other redress affecting individual rights which are not considered crimes.

COOPERATIVE REIMBURSEMENT AGREEMENTS: Contracts between federal, state, and local support enforcement agencies.

COURT OF APPEALS: The highest court in Maryland.

COURT OF SPECIAL APPEALS: The second highest court in Maryland.

CRIMINAL NON-SUPPORT: A misdemeanor punishable by up to three years in jail and/or a $100 fine.

CUSTODIAN: The person with whom the child lives, whether parent, relative, or otherwise.

DHMH: Maryland State Department of Health and Mental Hygiene.

DHR: Maryland State Department of Human Resources.

DMAR: Maryland State Division of Medical Assistance Recoveries (part of Department of Health and Mental Hygiene).

EQUITY COURT: The court which hears cases dealing with a divorce or separation, custody, and support. The court is governed by the concept of fairness to all parties.

EXTRADITION: The surrender of a criminal, prisoner, or fugitive by one State to another.

FFP: Federal financial participation. Funding mechanism used by the Federal Government to reimburse State and local political subdivisions performing child support services.

GARNISHMENT: The court-ordered seizing of money held by one person for or owed to a second in order to pay a debt or obligation owed by the second to the third.

HHS: U.S. Department of Health and Human Services (formerly the Department of Health, Education and Welfare). The parent agency for the Social Security Administration.

IMA: Income Maintenance Administration of the Department of Human Resources. Oversees the disbursement of money for AFDC grants, medical assistance, and food stamps.

INTERROGATORIES: A set of up to thirty written questions from one party to another, seeking information important to the case.

JOINT TENANTS: Persons who each own an equal interest in the same property, either real or personal, where the survivors acquire the interest of any owner who dies.

JUDICARE: A system whereby the state pays legal fees under certain circumstances.

JUDGMENT: The formal entry of the court's decision. The person to whom money is to be paid is the judgment creditor. The one who owes the money is the judgment debtor.

LACHES: An unreasonable delay in enforcing a right that prejudices another person's interests.

LEGAL AID BUREAU: An agency which provides free legal services to the poor.

LEGISLATION: Proposed new laws or proposed changes in existing laws.

LIEN: A claim upon property or on wages or other periodic payments.

MASTERS: (Masters in Chancery): Court officers who hear cases and make recommendations to the judges. They cannot pass sentences. They can hear divorce, custody, support, modification, and contempt cases.

MEDIATION: A non-legal process which attempts to bring about a consent agreement.

MEDICAID: (Title XIX): A Federal/State program providing medical care for the poor and non-supported. The State program is called the Maryland Medical Assistance Program (MA).

NON-CUSTODIAN: The parent who does not have court-ordered or actual custody of a minor child. In some cases both parents are non-custodians.

OBLIGEE: A person to whom a duty of support is owed.

OBLIGOR: A person owing a duty of support.

OSE: State Office of Support Enforcement (formerly Bureau of Support Enforcement).

PARENT: The biological or adoptive father or mother, including a father by paternity decree.

PATERNITY DETERMINATION: Determining a child's father when the mother is unmarried.

POLITICAL SUBDIVISION: In Maryland, the 23 counties and Baltimore City.

PREJUDICE: A bar to future action.

PREPONDERANCE OF THE EVIDENCE: Evidence which is more credible and convincing to the court than the opposing evidence, leading to findings that the fact is more probable than not. The standard of proof in Civil cases.

REASONABLE DOUBT: Evidence must be so conclusive and complete that all reasonable doubts of the facts are removed from the mind. The standard of proof in Criminal cases.

SEAL: A particular sign, made to attest, in the most formal manner, the execution of an instrument.

SPENDTHRIFT TRUST: A trust created to provide a fund for the maintenance of a beneficiary which is so restricted that it is beyond the reach of the beneficiary's creditors.

STATE'S ATTORNEYS: Elected attorneys who prosecute non-support, paternity, and reciprocal support actions on behalf of AFDC and non-AFDC people. Services vary in each jurisdiction.

STATUTE OF LIMITATIONS: Any law which fixes the time within which parties must take judicial action to enforce rights or else be thereafter barred from enforcing them.

TENANTS BY THE ENTIRETY: A husband and wife who have an equal interest and ownership in property, with survivorship rights, attachable only for debts of both together.

TENANTS IN COMMON: Persons who have ownership in the same property, without survivorship rights.

TITLE IV-D: A federal law, part of the Social Security Act, enacted in 1975 specifically to improve child support enforcement programs.

TITLE XIX: (See Medicaid)

TORT: A private or civil wrong or injury. The existence of a legal duty owed by defendant to plaintiff, breach of that duty, and a causal relation between defendant's conduct and the resulting damages to plaintiff.

TRIP: Tax Refund Intercept Program. TRIP intercepts the state income tax refunds of obligors who are in arrearages.

TROP: Tax Refund Offset Program. TROP intercepts the federal income tax refunds of obligors who are in arrearages in AFDC cases.

URESA: Uniform Reciprocal Enforcement of Support Act. Requires cooperation among states in support enforcement.

WARRANT: A process of a criminal court which authorizes search or seizure of persons or property.

WILL CONTRACT: A will which cannot be changed without the consent of another person.

WRIT OF FI FA (Fieri Facias): Part of the judgment process. The method of placing a levy on property.

WRIT OF NE EXEAT: Judicial order prohibiting a defaulting obligor from leaving [illegible] State and requiring him or her to post a bond as a guarantee.

Suggested Reading

Divorce, Child Custody, and Child Support., Special Studies, Series P-23, No. 84, Current Population Reports, U.S. Department of Commerce, Bureau of the Census, June 1979.

Child Support and Alimony: 1978, Special Studies, Series P-23, No. 112, Current Population Reports, U.S. Department of Commerce, Bureau of the Census, September 1981.

A Legislator's Guide to Child Support Enforcement, published by National Conference of State Legislatures, 1125 Seventeenth Street, Suite 1500, Denver, Colorado 80202.

The Cinderella Complex, by Collette Dowling, Summit Books, Simon and Schuster Building, Rockefeller Center, 1230 Avenue of the Americas, New York, New York 10020.

Making Fathers Pay, by David L. Chambers, University of Chicago Press, 5801 S. Ellis Avenue, Chicago, Illinois 60637.

What About the Children? by Francine Spilke, Crown Publishers, Inc., One Park Avenue, New York, New York 10016.

Alone Together by Sherrye Henry, published by Doubleday Press, 501 Franklin Avenue, Garden City, New York 11530.

Interstate Enforcement of Family Support, 2nd Edition, by William J. Brockelbank and Felix Infausto, published by Bobbs-Merrill Company, Inc., P.O. Box 7587, Charlottesville, Virginia 22906.

Child Support in America: Legal Perspective by Harry Krause, published by Bobbs-Merrill Company, Inc., P.O. Box 7587, Charlottesville, Virginia 22906.

Maryland Domestic Relations Forms by Ann McKenrick Turnbull and Joseph J. Wase, published by Maryland Legal Publishers, 406 W. Redwood Street, Baltimore, Maryland 21201.

National Roster and URESA/IV-D Referral Guide, published by National Reciprocal and Family Support Enforcement Association, 503 East Fifteenth Street, Des Moines, Iowa 50316.

MICPEL Legal Outlines, Maryland Institute for Continuing Professional Education of Lawyers, 500 W. Baltimore Street, Baltimore, Maryland 21201.

Tax Information for Divorced or Separated Individuals, Internal Revenue Service Publication 504 (Revised November 1981).

The following publications are available free from: The National Child Support Enforcement Reference Center, 6110 Executive Boulevard, 9th Floor, Rockville, Maryland 20852.

Guide to State Child Support and Paternity Laws.

Child Support Report, a monthly newsletter.

Techniques for Effective Management of Program Operatives (TEMPOS), periodicals.

The Runaway Parents, by Bill Gavlin.

Abstracts of Child Support Techniques, periodicals.

Men Who Know They Are Watched: Some Benefits and Costs of Jailing for Non-Payment of Support, by David L. Chambers.

An Assessment of IV-D's First Four Years, by Leonard J. Schossler.

Program Conflicts and Human Consideration, by Judith J. Cassetty.

Staff Data and Materials on Child Support, by the Staff of the Committee on Finance, United States Senate.

Child Support Enforcement: Annual Reports to Congress, by the U.S. Department of Health and Human Services, Office of Child Support Enforcement.

Information Sharing Index.

The following publication is available free from: The Maryland Commission for Women, 1123 North Eutaw Street, Room 603, Baltimore, Maryland 21201.

The Legal Rights of Women in Marriage and Divorce in Maryland.

Maryland Commission for Women

1123 North Eutaw Street/Room 603
Baltimore, Maryland 21201

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12/81—5M DHR Pub./CPA 5030

10/06/82—41402

Mrs. KENNELLY. There are two votes. So we will resume at 1:15 p.m.

[Recess.]

Mrs. KENNELLY [presiding]. We will reconvene the subcommittee.

Our first panel will be made up of John Abbott of the State of Utah; Dan Copeland, the National Council of State Child Support Enforcement Administrators; Anthony DiNallo, State of Connecticut; Bonnie L. Becker, State of Minnesota; and Mary Ann Cook, State of Wisconsin.

Thank you very much for coming before us today. I think we will proceed as we did on the last panel. We will start from my right and everybody will testify and then we will have questions.

STATEMENT OF JOHN P. ABBOTT, PAST PRESIDENT, NATIONAL RECIPROCAL AND FAMILY SUPPORT ENFORCEMENT ASSOCIATION AND DIRECTOR, OFFICE OF RECOVERY SERVICES, STATE OF UTAH

Mr. ABBOTT. Thank you, Madam Chairman. It is indeed a pleasure to be here today. I am here today representing the State of Utah as well as the National Reciprocal Family Support Enforcement Association with over 5,000 members nationwide.

As you indicated, I am currently the director of the Office of Recovery Services for the State of Utah. I am also the immediate past president of the National Council of State Child Support Administrators.

We are very pleased with the interest and the consideration that the child support program is currently being given. We have reviewed in various depths bills introduced by Mr. Stark, Mrs. Roukema, yourself, Mr. Coates, and recently Mr. Campbell. We sincerely applaud and appreciate this large amount of interest currently being generated in the program. We believe it is very timely.

We are in general support of many of the provisions of all of these bills. I should indicate to you, however, that some of the provisions will require additional fiscal commitments. We should not proceed to pass legislation and through that process give the women and the children of this country any false hopes about what may occur and not have the same degree of commitment to finance what we say we are doing.

I would like to briefly comment on Mr. Campbell's bill and I am sorry that he is not here.

Mrs. KENNELLY. Excuse me a minute. I do want you to know that the major person on the staff who was working with Mr. Campbell's bill is here and we have got a recording of it. Don't worry about it. We are all very interested in Mr. Campbell's bill.

Mr. ABBOTT. OK, super.

We are in general concurrence with most of the provisions of Mr. Campbell's bill. We do have some concerns, however, with his incentive proposal pursuant to that.

I just became aware of this bill yesterday in terms of its detailed provisions and it requires a concept called perfect cases and there is a benefit that a State would receive once they reached the 30-percent mark in terms of perfect cases for both segments of the caseload.

I contacted my staff yesterday in Utah and asked them to do some computer runs if possible to examine this proposal. Unfortunately, they responded to me that after I explained the situation, it would take at least a week to even program the computer to kick out this kind of information. So instead of a comprehensive review of that sort, they did do some quick checks on about six of the large teams. Unfortunately we came to the realization that we actually only have about 6 percent of our cases which are in the perfect case category and I would like to point out to you if you are not aware that Utah has one of the more effective and efficient child support programs in the country. We have continually led the Nation for the past 7 years in the percentage of AFDC that we returned.

In terms of the adequate case categorization, that requires that you have at least 70 percent of your cases in that paying mode before you get an incentive.

Again, I hate to report but we only have 9 percent of our cases in the adequate case category.

I am encouraged by Mr. Campbell's caveat in his introduction to his bill that he does allude to the fact that these amounts and these benchmarks may not be the final figures and I certainly would hope that he would be willing to work with us in coming up with some definitions that might, in fact, apply to a few more States. I don't know of any State in the Nation that would have 70 percent adequate cases or 30 percent perfect cases.

I would like to address for a moment the administration's new proposal. I would, however, like to applaud their withdrawal yesterday of the net collections concept and all of you who have worked with them to relieve the child support program of the burden that proposal has created for the last two years.

We are indeed supportive of many aspects of the administration's proposal. We believe that the mandatory laws relative to wage assignment, State tax intercept, the administrative and quasi-judicial process will be most beneficial to the program. We also duly note that these concepts are included in many of the bills being propagated by yourself and others.

We have also worked extensively with the administration in developing the audit criteria that is currently being promoted in their bill. We, in fact, believe that this audit criteria by itself will bring about the needed increases in program performance over a period of time. Now true, it may take 2 to 3 years to do that and what everybody seems to be after is a quick fix.

I would submit to you that in reality there are no quick fixes for the kind of program we are dealing with here today.

The new proposal by the administration causes us great concern in the reduction of the Federal financial participation to 60 percent. We applaud Mr. Campbell in his realization in his bill that funding should be left at 70 percent. I believe that was considerable wisdom on his part to leave that in place. The elimination of the 15-percent incentive and the redistribution of that may be a valid concept. We are anxious to work with the administration and with the Congress to come up with some way of divvying that out on a fair basis but we are very concerned with the reduction in the FFP rate.

The $200 million that would be saved with this proposal would be split equally between AFDC and non-AFDG activities. This, of course, finally gives recognition to the non-AFDC portion of the program. This is certainly timely. It is certainly beneficial and I am sure you have heard the ladies that testified before this panel who would be very encouraged by this type of approach. On the other hand, it represents a 180-degree turnabout from the administrations' philosophy over the last 5 to 6 years. This took place in a day. Most of the programs in this country——

Mrs. KENNELLY. Excuse me. What took place in a day?

Mr. ABBOTT. The thrust from an AFDC-oriented program to really a non-AFDC-oriented program.

Mrs. KENNELLY. Why do you say that?

Mr. ABBOTT. The reason I say that is based on the direction the administration has been pushing the program for at least the past 2 years, and an examination last night of what this proposal would do to the State of Utah.

Mrs. KENNELLY. I would like to point out that we have had a bill in since March that didn't have this proposal on it so I don't want all the emphasis to go on the brandnew bill when we have had a bill in for some months.

Mr. ABBOTT. Yes. I am aware of that. I guess the concern that we have is if you are going to endorse the administration's proposal on how they divvy up the incentives, you really ought to look at that in terms of a phase in over a period of time. States cannot react by October 1983 to a radical turnabout in the whole concept, the whole direction of their programs. Many States are budgeted 2 years in advance. The increased emphasis on non-AFDC is going to require additional staff, additional fiscal commitments not only on the part of the Federal Government but also on the part of the State, county, and local governments. And you have, as you know, processes in place where budgets are established well in advance of the actual spending.

So I would urge you to consider a phase in if, in fact, this proposal is passed.

We also have some concerns in regards to the application fee and the fee against the absent parent. The administration proposes to charge a $25 application fee to the plaintiff or the needy individual in need of child support and a 3- to 10-percent sliding fee to the absent parent.

We would encourage you to totally discard this whole area of fees. We have tried this in the past. It has not worked. The revenues that have been produced from the fees have been insignificant. They have been extremely difficult to administer in terms of the State's program and additionally, and probably the biggest factor is that the judiciary consistently disregards these kinds of fees anyway and they are reluctant to reduce the amount of support being given to the mother and they are also reluctant to increase the amount of support being paid by the absent parent. So generally speaking, they do not award these fees to anybody.

In essence, we believe that the fee concept is a bad one and should be discarded.

We are also concerned in the administration bill as well as some of the other bills before this committee today that there is no incentive for paternity establishment. This is a chronic problem in this Nation. It is getting worse instead of better all the time. Additionally, we are concerned with the interstate enforcement. When absent parents cross State lines there ought to be some incentive to go after them. The administration bill and none of the bills, in fact, realistically address this chronic issue.

We believe that trying to expand and trying to improve the program without a commensurate fiscal commitment can only result in frustrations for all of us.

If you would instead leave the funding at 70 percent, develop a realistic incentive proposal that will give States, counties, and local jurisdictions the wherewithall and the desire to achieve program success, then I think we may be well on our way. But what is really needed in many States to increase the performance is to change the status of the IV-D agency in that department.

I hate to report to you, but many of these agencies are viewed as the literal ugly duckling of the department of social services in their State. They are the last ones to receive any priority for anything and I am talking about staff. I am talking about legislation. I am talking about general commitments to their operation. That must be changed in order for the States that Mrs. Heckler alluded to this morning to be brought up to speed.

Finally, I would like to once again express our appreciation to you, Mrs. Kennelly. We have reviewed your bill. We think it has some extremely good features. We are in support of it and we would like to once again convey to you that we are willing to work with the Congress and the administration to bring about the needed improvements and perhaps changes in the child support program.

Thank you.

[The prepared statement follows:]

STATEMENT OF JOHN P. ABBOTT, PAST PRESIDENT, NATIONAL RECIPROCAL AND FAMILY SUPPORT ENFORCEMENT ASSOCIATION AND DIRECTOR OF RECOVERY SERVICES, STATE OF UTAH

Mr. Chairman, it is an honor to appear before this Committee today. I am John Abbott, Director of the Office of Recovery Services for the State of Utah, and immediate Past-President of the National Council of State Child Support Enforcement Administrators. I am also on the Legislative Committee for the National Reciprocal and Family Support Enforcement Association (NRFSEA). I am here today to express the views of NRFSEA and the State of Utah in regards to the Administration's proposal, H.R. 2374 (Mrs. Kennelly), H.R. 926 (Mr. Stark), H.R. 3354 (Mrs. Roukema), and the child support program in general.

In reference to the Administration's proposal for child support enforcement, let me emphasize that it must be viewed in two parts:

(1) The proposal mandates three state laws to enhance child support collections. We strongly support this concept. The proposed laws are exactly the kind of help the program needs in order to change the odds of absent parents meeting their support obligations. In many instances, there are insufficient mechanisms in place to bring about payment if absent parents choose not to pay. We urge your support of this initiative which includes mandatory: State tax intercept; administrative or quasijudicial procedures for the establishment and enforcement of child support obligations; wage assignments for past due support.

(2) Performance Funding, the other issue is the Administration's proposal of last year with a new name. Regardless of the name change, this Committee rejected it last year and we would hope you would do so again this year. The funding proposal requires states to fund both aspects of the program (ADC and Non-ADC) from AFDC collections. The federal government would basically participate in any profit or loss

which may occur. To help stimulate performance, the funding proposal also provides for bonuses.

Our criticism of the proposal is two-fold. First, it gives only a small amount of credit for Non-AFDC case work. Second, the proposal is void in the area of paternity establishment and interstate collections.

We want to reemphasize that the program was originally created in 1975 to address four National Child Support Enforcement concerns: (1) AFDC collections, (2) non-AFDC collections, (3) paternity establishment, and (4) interstate coordination.

Performance funding totally ignores the high cost and mandatory nature of paternity establishment. The interstate coordination effort is also ignored and only a token effort has been given to Non-AFDC collections which leaves us with only one area where the proposal addresses the program's original intent . . . AFDC collections. While this is an important area, the others have equal importance.

I would like to briefly address these issues from Utah's perspective, which would mirror to some extent the situations in other states. I would point out, however, that Utah is one of the more effective and efficient states and has continually led the nation for the past 5 years in the percentage of AFDC funds recovered through child support collections. You may well wonder why a state with an effective AFDC support program would object to a funding scheme which purports to award just such activity. The reason is the funding proposal is a "wolf dressed in lamb's clothing" and offers very little incentive to do non-AFDC work even though you have heard in previous testimony regarding the high level of need for this service. In the Utah program, if the Administration's bill were enacted, federal contributions would drop to only $40,000 or a loss of $170,000, for this important part of the program. This is true even though we target our non-AFDC services on a first priority basis to those individuals who would probably be on public assistance were it not for the child support collection. This effort, as you may know, avoids AFDC expenditures that would otherwise be made at a significant cost to both the state and federal government. If anything is done in the non-AFDC area, it should be to increase the federal commitment certainly not decrease it!

An equally significant oversight is the total lack of any consideration being given in the funding proposal for interstate work. The net result will eventually be the elimination of child support enforcement work for other states. The impact of this oversight is overwhelming in the sunbelt states, but even in Utah with a fairly stable population, 24.6 percent of our total collections come from other states. That equates to a dollar loss to Utah and the federal government of $3.4 million in this small state alone. Imagine the impact to states like New York and California.

The performance based funding proposal being advocated by the Administration will truly devastate the child support enforcement program and the progress that has been made in the past seven years.

In regards to H.R. 2374 (Mrs. Kennelly's bill), let me make it quite clear that our organization is in basic support of this Bill. You should be aware, however, that there are fiscal and programmatic considerations that must be adequately addressed in regards to the: 1. Purpose statement, 2. clearinghouse or central registry concept, 3. the IRS tax intercept for non-AFDC cases.

In general, implementation of these three areas along with the mandatory laws will lead to a better program. The three areas of concern I have mentioned, however, will also require increased fiscal commitments to the program by this Committee. If additional financial support can be provided, then H.R. 2374 certainly has our strong support. Without that financial commitment, however, you will be offering false hope to millions of women and children with no potential for followthrough. I am sure that is not the desire of this Committee.

We are also in strong support of H.R. 926 (Mr. Stark's bill) and H.R. 3354 (Mrs. Roukema's bill). We would recommend, however, deleting the Section in H.R. 3354 which directs the absent parent to pay the fees imposed to cover costs of collection. This has been tried and failed in the past. While it sounds good in reality, it does not work.

In closing, I would like to stress that those I represent here today stand ready to assist both the Administration and Congress in developing the means to enhance performance within the child support program and to, in reality, "Make a good program better."

Thank you for allowing me to express our views.

Mrs. **Kennelly**. Thank you, Mr. Abbott, and I am very aware of your program and that is why we are very glad to have you here and want to work with you because you have had the experience.

Mr. Copeland.

STATEMENT OF DAN R. COPELAND, PRESIDENT, NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS, AND DIRECTOR, ALASKA CHILD SUPPORT ENFORCEMENT DIVISION

Mr. Copeland. Good afternoon. I am Dan R. Copeland, president of the National Council of State Child Support Enforcement Administrators. I also serve as the director of the Alaska Child Support Enforcement Division. Our national council includes the operational head of each State child support enforcement agency. This provides the council with the unique view of the program. We see the day-to-day destructive impact that the lack of child support creates. We also see and work with the State legislative bodies in Congress and the administration.

All three of these organizations form the direction for the program. With the original legislation, the direction from Congress was straightforward. This body wanted the program to address all child support. However, the consistent direction from the administration has been that the program should aim at the child support which the Government can keep and use to make a profit. This narrow focus has created a massive hue and cry from the custodial parents.

As you have heard this morning from Secretary Heckler, this direction is to be radically changed. Our council heartily endorses this conceptual change. Now as bad as the problem may seem from the custodial parent's point of view, it is also quite hard on the absent parent. First, the welfare programs tend to lead the absent parent to believe that the Government will take care of his children. While there are millions of children currently receiving some form of assistance, there are more out there that start out above the poverty line. Their loss from the lack of child support is in their standard of living, their self-esteem and eventually some type of welfare or even worse, the delinquency programs.

By the time the child requires some form of Government involvement, the father has developed two significant items. First, he is facing an arrearage that appears too large and in his mind unfair.

Second, he is well into the habit of not paying child support. Even in the best of circumstances we all find changing an established pattern to be very difficult. The children are the ultimate losers but as he sees less and less of them, that becomes less and less apparent to him.

From the custodial parent's viewpoint, each day the financial hard facts of life force her to at least consider applying for welfare. She must constantly decide whether it is bad enough to give up and apply for the services of welfare. She must constantly decide whether or not it is bad enough to give up.

Her inner sense tells her that getting out of the welfare cycle is almost impossible but the immediate needs of her children often leave her with no choice at all. In any event, the two separate parents find themselves in adversarial positions, with child support in a delinquent and bitter status. Visitation or anything requiring adult-like communication becomes virtually impossible. Once things reach this stage, and they usually do, enforcement or collection is far more expensive. Both parents feel rotten about the entire situation and the children, again are the ultimate losers.

To correct this situation as it now stands, the enclosed survey response indicates that the administration's current child support proposal has to be scrapped. Again, I am pleased to see that that proposal was scrapped.

[The survey referred to follows:]

NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS SURVEY RESPONSE—MAY 1983

The National Council of State Child Support Enforcement Administrators polled each of its 54 members for their position on major current program issues for fiscal year 1984. That survey information is presented below.

1. The Council should take the following position with regard to the OCSE "Restructuring or Performance funding" formula: 43 Oppose; 2 Support (one total support and one support with change); 3 No Opinion; 6 No Response; 54 Total States and Jurisdictions.

2. The Council should take the position noted above because: (The following explanations were offered most often in the survey and are the major reasons for practitioners opposition to restructuring.)

Restructuring penalizes those states that are effective now and pays incentives to those that have been ineffective in the past.

Restructuring does not provide stable funding.

This year's proposal has the same flaws that last year's proposal included.

Restructuring will have a negative impact on the entire national program.

Restructuring is not cost effective.

Restructuring will discourage or prevent interstate work.

Restructuring will discourage or prevent non-AFDC services for custodial parents and children.

Restructuring will discourage or prevent paternity establishment work.

Mr. COPELAND. It has to be replaced with a funding plan that is in line with the child support purpose statement in the Child Support Improvement Act in H.R. 2374. This plan should include funding for paternity establishment, interstate collections and all aspects of non-AFDC and AFDC work.

To stimulate performance, the Administration's proposed collections to cost ratios for audit criteria could be used.

These ratios would have to exclude the paternity establishment costs and include all interstate collections.

In an effort to emphasize the paternity establishment and non-AFDC work, the administrative match for these activities should be raised from 70 to 75 percent. Separate cost centers could be required or the lower 70 percent could be funded. The increase in the required Federal funds would be minimal while the impact would be substantial.

I would like to address the administration's current proposal just briefly. Obviously we have just seen it. My concern with the administration's proposal starts with the same concern that Mrs. Kennelly and several other people raised earlier. No additional funding is offered. That is a complete statement in itself. Many of the program enhancements will require funding to implement them. Reducing the FFP rate from 70 to 60 perent ignores that basic operational fact. While the various bonus arrangements will bring in both improvement and operational funding, this funding will not come in time. The excellent ideas as presented in the various proposals will not work unless adequate stable funding is provided.

In closing, I would like to simply point out that there are a lot of children waiting to see what we in this room are going to do.

[A report submitted by Mr. Copeland follows:]

**National Council of State Child
Support Enforcement Administrators**

A Status Report of the Child Support Enforcement Program

February 1983

THE CHILD SUPPORT ENFORCEMENT PROGRAM
A STATUS REPORT - FEBRUARY, 1983

EXECUTIVE SUMMARY

The National Council of State Child Support Enforcement Administrators has prepared this report to present its views regarding the support enforcement problem that exists for the many children affected by divorce, separation, or the lack of established paternity. A brief history has been included to aid the reader in understanding the scope of the problem and the program accomplishments. Recommendations for the future of the program must include the establishment of a national ethic that children have a right to be supported by both parents. The need is basic . . . children need their child support!

It is important for the reader to understand that practitioners in the field of support enforcement believe that the wrong approach has been used in the attempt to address the issue of poverty among children. Although well meaning, the vast network of social legislation addresses the symptom of the problem rather than the cause. The system provided welfare first, and later as an afterthought . . . child support enforcement. This course of action was taken in spite of the fact that at least 80% of the reasons for eligibility for Aid to Families with Dependent Children (AFDC) has been insufficient child support from the absent parent.

It is obvious to practitioners that if the national effort to try to fix the AFDC and other related welfare programs had instead been invested in curing the disease (lack of support), the nation would not be paying an estimated $30 billion annually for public entitlements. The primary reason for the 30 billion dollar problem was and still is caused by the lack of child support. The problem is not isolated to children receiving public assistance. Regardless of the income level, millions of America's children are being economically deprived and cannot achieve true potential if financial support is withheld by one or both parents.

In 1975, when Congress established the Child Support Program (Title IV-D of the Social Security Act), the establishment of a comprehensive support enforcement system was envisioned. In mandating states to provide AFDC and non-AFDC related services, it appeared the purpose of the program was to provide an opportunity for all children to receive support from their parents through more effective enforcement of state and federal child support laws. While the primary objective was to directly reduce the increasing burden on the taxpayer of maintaining the AFDC program, the law also required states to provide child support enforcement services for all applicants that were not in the AFDC program.

Child support practitioners are of the opinion that the program's focus from the federal perspective has changed. Instead of encouraging states to collect child support for children, AFDC collections for governmental reimbursements are now emphasized. The law created two programs to address the one issue of non-payment of child support. However, the federal government began to concentrate more than ever on the public assistance aspect of the Child Support Program by consistently recognizing only the AFDC related accomplishments. Faced with this situation, states are placed in a position of either following the letter of the law while ignoring the operational directives of the federal government, or deemphasizing regulatory requirements to adhere to the federal directives.

Actual collection history indicates that states vary considerably in their approach to the two services. Some states concentrate on AFDC collections while others focus on non-AFDC services. In FY 81, the program collected $1,628,894,466 at a cost of $512,517,943. This 3.18 to 1.00 ratio is obviously successful. A total of $958,256,541 was collected in the non-AFDC portion of the program and $670,637,925 in the AFDC portion.

Several studies done by individual states indicate that the non-AFDC child support program is responsible for saving millions of dollars each year in welfare costs avoided. The non-AFDC portion of the program encourages independent child support payments. This reduces the need for governmental dependency while helping to curtail financial deprivation in general. Federal law allows states, at their option, to charge a fee for these services. However, fees are not universally charged and experience has shown that when they are, they do not cover the cost of the non-AFDC portion of the program.

Decision makers need to realize that both portions of the program are cost effective and vitally important. Sufficient funding must be retained to adequately address both AFDC and non-AFDC child support cases. The establishment of paternity, interstate collections, and the many facets of the total problem of child support enforcement are common to both caseloads. In the final analysis, there is no substantial difference; it is a matter of children and their right to be supported by their parents. Decision makers need to redirect their priorities to address this vital root cause of poverty among children. Both parents, not governmental aid programs, need to be responsible for their children. The current Child Support Program is in the infant stage of returning this responsibility of all children to the parents.

HISTORICAL PERSPECTIVE

The first question to be answered was, "Whose obligation is it to support children?". Common law has historically failed to impose on absent parents a civil obligation to support their children. Although custody of children has traditionally been given to the mother, and the absent parent was the father, common law had not expanded much past that point. As late as 1953, the Supreme Court of New Jersey had difficulty finding a legally enforceable support obligation which bound the father to his children. The need was so basic -- but the remedy only referenced "natural law."

Viewed as a state and local problem for many years, federal attention was attracted as costs in the Aid to Families with Dependent Children (AFDC) program continued to escalate. Inadequate laws and a lack of funding were producing low child support collections while over 80% of those receiving AFDC were eligible due to the non-payment or insufficient payment of child support obligations. Contributing to the problem was the prevailing attitude that government, rather than the absent parent, should support abandoned children by means of the AFDC program. Unfortunately, this gave more credence to the concept that it was the custodial parent's responsibility (usually the mother's) to support the children. Due to the social acceptance of this trend, thousands of single parent families (even those not reliant on AFDC benefits) were left without a viable means of support.

To address this problem, Senator Russell Long, then Chairman of the Senate Finance Committee, and Representative Martha Griffith, then Chairwoman of the Subcommittee on Fiscal Policy of the Joint Economic Committee, developed and published an analysis of the welfare system. Both were dedicated to improvement of child support enforcement laws and practices. Changing social mores and the complexity of the problem helped to convince Congress to relieve the plight of the single parent by creating a federal office with oversight responsibility; the Office of Child Support Enforcement, (OCSE) was created effective August 1, 1975. The Title IV-D amendments to the Social Security Act created a funding mechanism to address this chronic national problem.

In their deliberations on the creation of the Federal Child Support Enforcement Program, the Senate Finance Committee stated:

> "The Committee believes that all children have the right to receive support from their fathers. The Committee bill, like the identical provision (H.R. 3153) is designed to help children attain this right, including the right to have their fathers identified so that support can be obtained. The immediate result will be a lower welfare cost to the taxpayer but, more importantly, as an effective support collection system is established fathers will be deterred from deserting their families to welfare and children will be spared the effects of family breakup." (Emphasis added).

Federal Involvement Was Necessary

Since the late 1950's, the number of single parent families has increased dramatically. That growth is directly attributable to the escalating numbers of divorce, marital separation and out-of-wedlock births. Then as well as now, the custodial parent, usually the mother, faced with a financial crisis often seeks financial assistance through governmental outlets. Since most heads of single parent households enter the work force at an inadequate wage level, they find their incomes insufficient to meet ordinary household expenses, day care, clothing and the transportation expenses related to working. The combination of the burdens of daily work, which provides an inadequate income, and the complete responsibility for rearing the children, often overwhelms the custodial parent. These factors, coupled with the lack of financial support from the absent parent, often place the custodial parent in a position of financial dependency upon governmental programs.

Current national estimates indicate one out of every three marriages in the United States ends in divorce. There is an obvious correlation between the increasing divorce rate and the increase in the number of welfare families with single parents heading the household. Seventy-eight percent of all welfare households consist of a single parent, usually a woman, who is providing the basic needs for her family through an assistance grant because the father withdrew or never provided financial support. When absent parents default and avoid their financial responsibilities, the chance of their children being supported by a governmental aid program is much higher. A study presented to the Senate Finance Committee by M. Winston and T. Forsher, "Non-Support of Legitimate Children by Affluent Fathers as a Cause of Poverty and Welfare Dependence", stated that non-support of legitimate children by affluent fathers was often a cause of poverty and welfare dependence. Another conclusion in the study was that many attorneys and public officials found child support issues boring and in some instances were even hostile to the concept of fathers being responsible for their children.

The Scope of the Non-support Problem

How serious is this problem of non-support of families by absent parents? Over seven million children are presently receiving public assistance in the United States through the various federal and state welfare programs. Of greater concern is the possibility that the very existence of the welfare program has caused some of the absent parents to conclude that if they have marital difficulties, they need not worry about the consequences of financially abandoning their families. From their perspective, the government will provide assistance for their children while they establish new lifestyles and often become parents of more children.

The number of children in single parent households is growing at a rapid rate. The 1970 census figures showed 8,265,500 children living with only one parent. By 1980, the number had grown to 12,163,600, nearly a 50% increase! The problem from a financial perspective is that nationally less than half of these custodial parents received the money due to them.

In the early stages of the welfare program, little was done to recoup the welfare dollars expended. As a result of this lack of action, many absent parents who may have been capable of paying became remiss in their obligation to support their children. For a considerable period of time, they were not made to bear the costs of supporting their children. Society simply "picked up the tab." The cost of the tab, however, has become incredible. In 1956, the total cash benefits expended in assistance to children was just over $617 million. By 1982, that figure increased to an astounding $12 billion annually -- a 2000% increase in 22 years. As staggering as that figure may be, it is not all inclusive. Additional billions were spent on food stamps, medicaid benefits, foster care, juvenile institutions, and other related programs.

THE CHILD SUPPORT ENFORCEMENT (IV-D) PROGRAM

Because of the immensity of the problem, in 1975 Congress enacted Public Law 93-647. Maintaining a child support program became an individual state eligibility requirement to receive federal match funding in Aid to Families with Dependent Children (AFDC). The Federal Office of Child Support Enforcement (OCSE) promulgated regulations covering the maintenance of case records, the establishment of paternity, the locating of absent parents, the enforcement of support, and the use of cooperative agreements among the states. The administration of the program was left to the state child support units, which are required to function within the parameters of federal regulations, local and state laws, county, and/or judicial prerogatives.

Originally, federal financial participation provided for 75% of the administrative costs of operating a child support program. The remaining 25% was provided by the state and or local government. With the 1982 changes in federal law, effective 10/1/82 financial participation is now a 70% - 30% split.

To encourage cooperation between states, local governments, other political jurisdictions, and to increase AFDC collections, the federal government also provided for a 15% incentive payment on AFDC collections. This 15% payment is deducted from the federal share of the AFDC distribution. However, the 1982 legislation provides that as of October 1, 1983, the 15% payment rate will be reduced to 12%. Lowering the incentive percentage rate will actually provide a disincentive to state programs.

A financial commitment is necessary to begin reversing the trend toward lack of cooperation between states that has developed. Continued and expanded support at the national level will result in future growth and success in the program. At the same time, the individual families will move toward less dependence upon the federal and state government for financial support.

There are two categories of cases; AFDC and non-AFDC. For children receiving AFDC, collections are distributed back to the state and federal governments. These collections are distributed between the two based upon the matching grant rate which the federal government provides to each state for their medicaid and AFDC programs. For families who are not receiving AFDC, collections are sent directly to the custodial parent. Neither the state nor the federal government receives any portion of non-AFDC collections (except fees), but both directly benefit because the collections do significantly reduce the potential for AFDC eligibility.

In FY 81, 1.6 billion dollars in child support payments were recovered from absent parents. This recovery effort represents a step in the right direction, but many barriers still exist which inhibit effective and efficient child support collections. The major barriers have been the lack of enforceable laws and resources to handle the immense nature of the problem. The difficulty is compounded by the large number of absent parents who cross state lines in an attempt to avoid payment of support. Nationally, only 11.3% of the absent parents whose children are on welfare are actually paying child support. Reliable data now exists which indicates that this figure can be greatly increased. A number of states are already receiving payments on over 20% of their cases.

The most current information available to the states demonstrates continuous progress in program effectiveness. The data below has been extracted from the 6th Annual Report to Congress, published by the Department of Health and Human Services, Office of Child Support Enforcement.

TABLE I

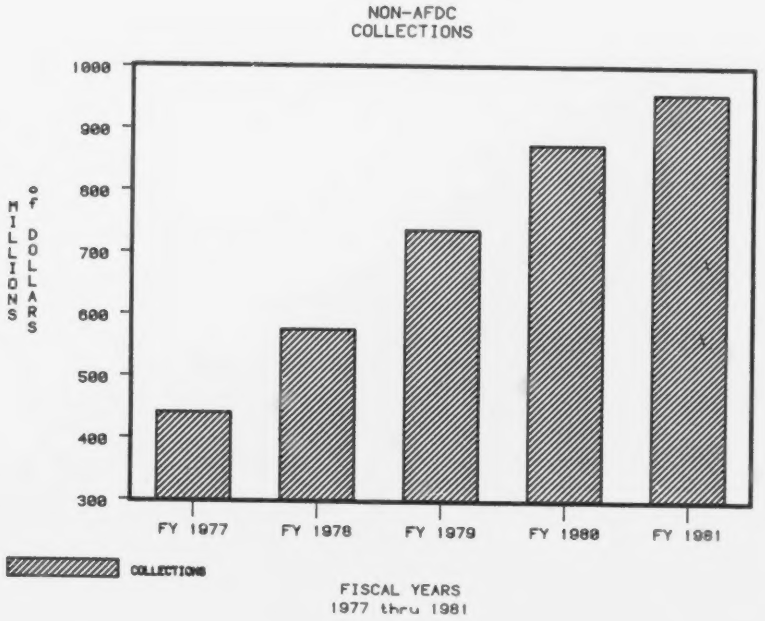
	1976	1977	1978	1979	1980	1981
Total Child Support	$512 mil.	$864 mil.	$1,048 mil.	$1,333 mil.	$1,478 mil.	$1,629 mil.
AFDC Collections	204 mil.	423 mil.	472 mil.	597 mil.	603 mil.	671 mil.
Non-AFDC Collections	308 mil.	441 mil.	576 mil.	736 mil.	875 mil.	958 mil.
Paternities Established	14,706	68,263	110,714	117,402	144,467	163,554

Non-AFDC Collections

It is worthwhile to note, in reference to the figures on the graph below, that the funds collected in the non-AFDC category are distributed directly to families not on public assistance. Several independent state studies have estimated that 15% to 25% of these families would be on public assistance if the child support collection service were not in place. This translates into substantial savings in AFDC, food stamp, and medical assistance expenditures.

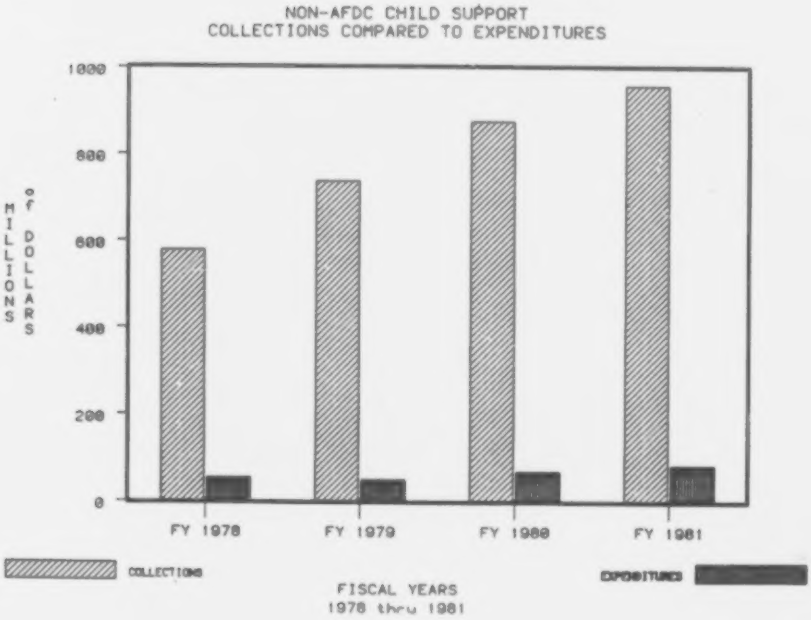
Table II depicts annual collection totals for the non-AFDC portion of the program. Collections increased nearly 117% during the five year reporting span and the effect from this collection effort is a reduction in individuals receiving AFDC assistance. While termed "cost avoidance", the AFDC reduction reflects a substantial savings in all welfare program expenditures. There would be a significant increase in the number of AFDC applicants if the non-AFDC collection program were allowed to diminish.

TABLE II



Non-AFDC collections indirectly offset the costs of the public assistance program. Table III shows the costs compared to collections in the non-AFDC program. It is significant to note that while the non-AFDC collection total is now one billion dollars annually, this collection figure has not been used in the evaluation of the program's achievement. On the other hand, the cost of operations has been used as an integral part of the program evaluation. Practitioners are concerned about this and puzzled by the lack of compliance with congressional intent.

TABLE III

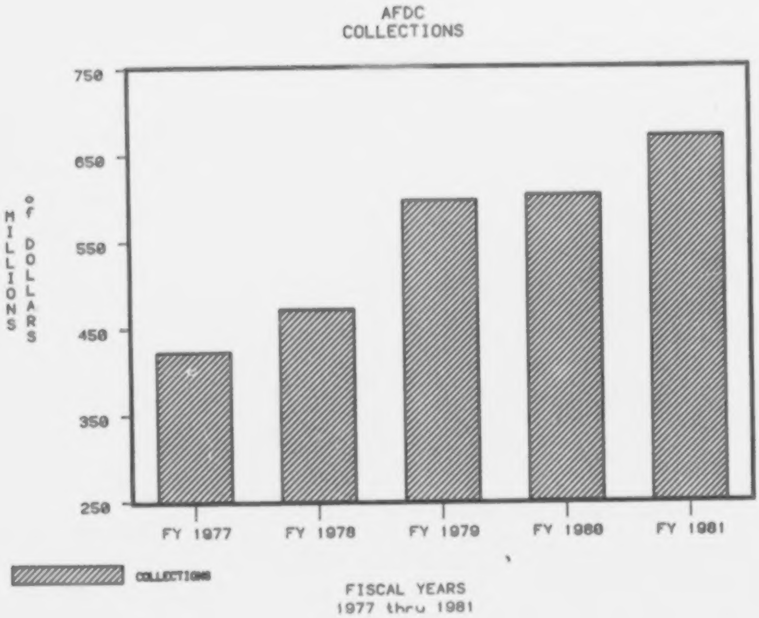


NON-AFDC CHILD SUPPORT
COLLECTIONS COMPARED TO EXPENDITURES

AFDC Collections

AFDC collections directly offset the costs of the public assistance programs. Table IV reflects significant annual AFDC collection increases during the periods FY 77 to FY 81. The program has experienced a 59% increase in funds recovered. Favorable legislative action or improved enforcement techniques at the federal, state, and local level, are directly attributable to this trend.

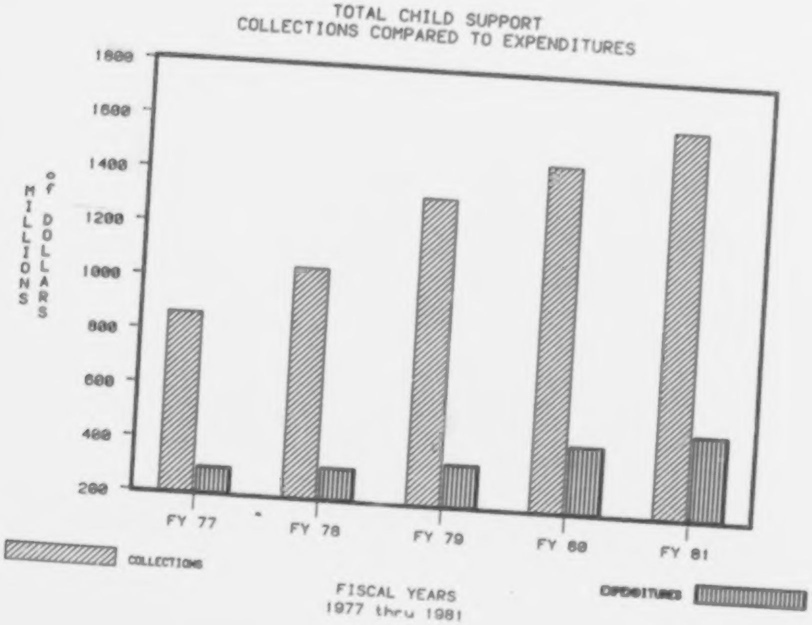
TABLE IV



AFDC and Non-AFDC Collections

A combined chart (Table V) showing the effectiveness of the AFDC and non-AFDC initiatives provides dramatic illustration of the program's success. This shows the difference between collections and expenses. Clearly, collections are running ahead of expenses by a 3 to 1 ratio. From FY 77 to FY 81, annual collections have increased by more than 750 million dollars, while the corresponding figure for expenses shows an increase of about 200 million.

TABLE V



Interstate Collection Difficulties

Due to the Nation's transient population, some states are experiencing a large influx of absent parents. These states are collecting an increasing amount of child support which is sent to another state where the custodial parent and children are living. In many cases there is a considerable difference in the amount that is sent out of state as opposed to what is returned. The local jurisdictions within the states are experiencing similar problems.

The state and local jurisdictions that actively pursue collection work on behalf of others, must deal with a distorted and often negative collection to expenditure ratio. This problem is complicated even further by the lack of uniform laws and legal requirements. It is imperative for the absent parent population to recognize that moving to another state does not eliminate their child support obligation.

Currently OCSE has initiated a contract to the National Institute of Child Support Enforcement (NICSE) to survey and study the interstate collection problem. This will include contact with approximately 10,000 jurisdictions and/or organizations which perform child support services nationwide. Work on this contract will start in early 1983.

Establishing Paternity

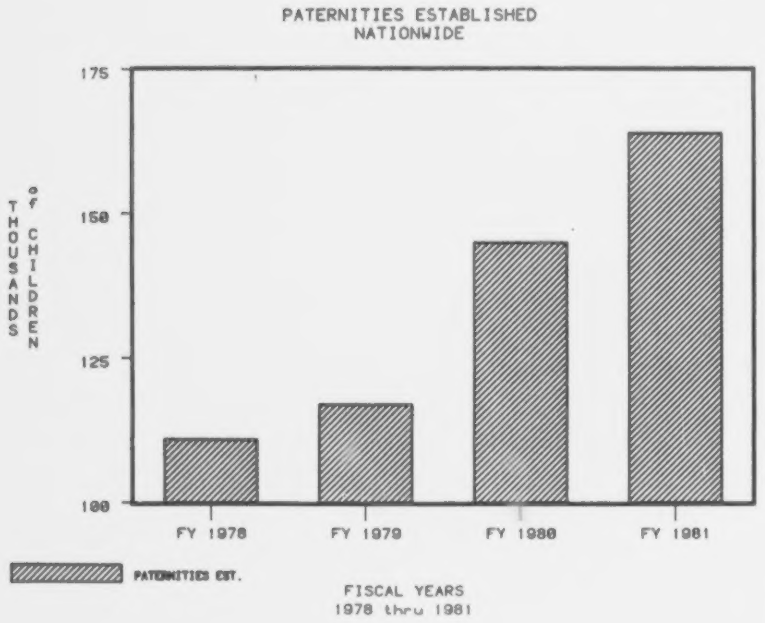
A significant factor which has contributed to the increased growth of the welfare program (AFDC) is the number of children born out-of-wedlock. According to statistics maintained by the National Health Center in 1979, there were an estimated 597,800 out-of-wedlock babies born in America. This was approximately 17% of all births, but is even more striking when compared to statistics of a decade ago. In 1970, unwed mothers had 399,000 babies, or 10.7% of all births for that year. OCSE reports that the large increase in the non-marital birth rate has brought a corresponding increase in the cost of AFDC funding.

The "inherent right" of the child starts with paternity establishment. Legally identifying the father establishes potential Social Security, veteran's assistance benefits, insurance benefits, and potential inheritance rights. It is the first step in shifting the burden of support from a government program back to both parents.

Currently, OCSE has initiated two contracts to study the cost effective aspects of doing paternity establishment. Work on these contracts will start in early 1983.

Table VI indicates a 68% increase in paternity determinations during the four year period ending 1981. This demand for paternity establishment should be paramount in every child support unit, however, the task is extremely expensive. These costs are immediate while the benefits are of a long term nature.

TABLE VI

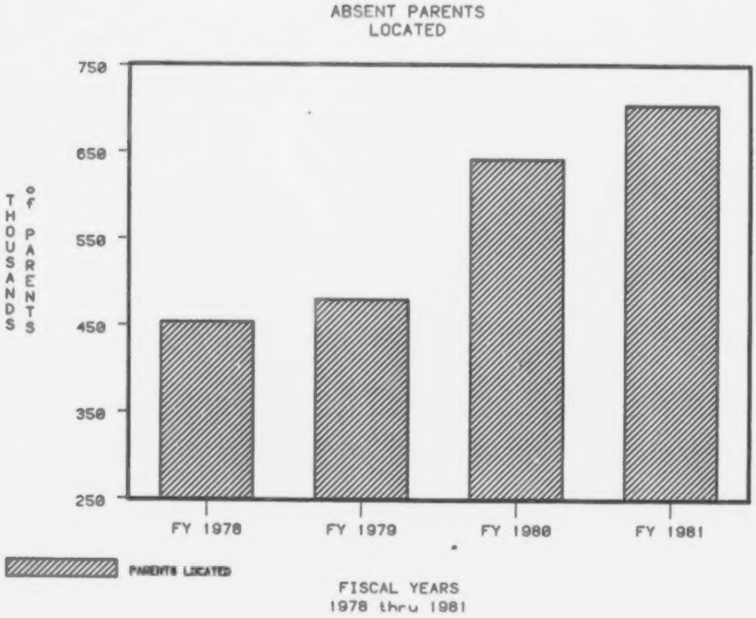


Locating Absent Parents and Establishing Support Obligations

In order to increase collections during the short history of the program, states have had to work on locating absent parents and establishing support orders.

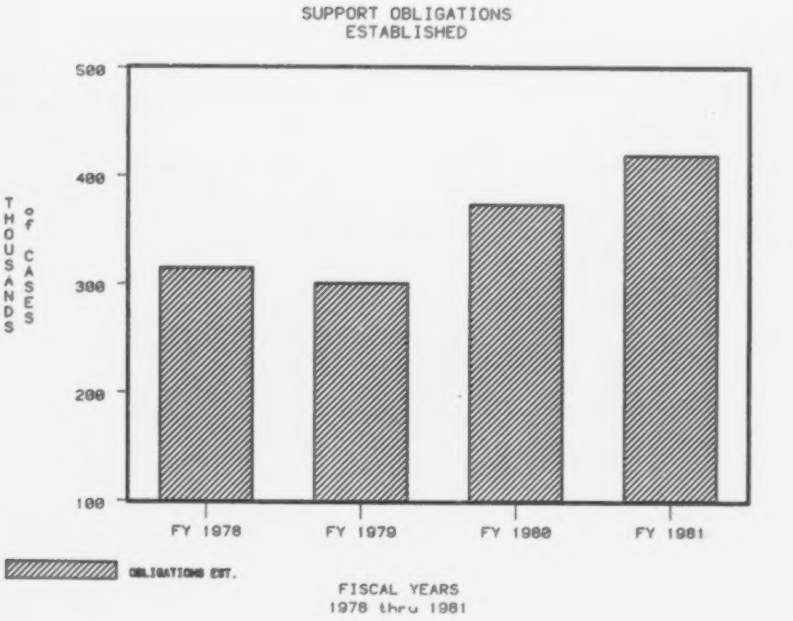
Before a case can be established as an enforceable order, the absent parent must be located. Table VII indicates the number of absent parents located for the establishment or enforcement of a child support obligation.

TABLE VII



Once the absent parent is located, a legally binding child support obligation must be established. Table VIII indicates the number of obligations that have been established.

TABLE VIII



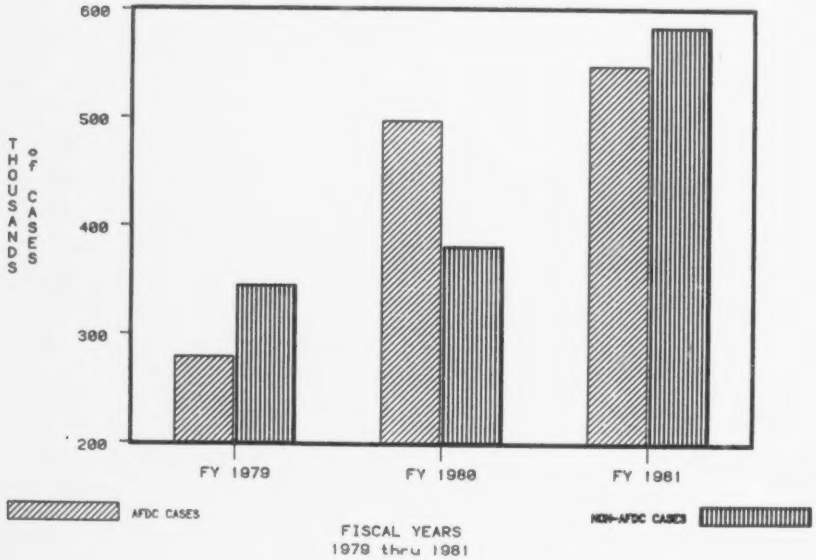
Increase In Cases Paying

The combined factors of locating the absent parent and establishing an obligation to pay has led to a significant increase in the number of cases paying each month. Table IX illustrates this trend for both AFDC and non-AFDC cases over a three year period.

This chart points out the number of AFDC and non-AFDC cases paying and should be compared with amounts of money collected as indicated in Tables II and IV.

TABLE IX

AVERAGE NUMBER OF CASES
PAYING EACH MONTH



RESTRUCTURING

In 1982, operating under the premise that the program could be made more effective, "financial restructuring" was sought by OCSE within the Reagan Administration. There was, however, a considerable difference of opinion with regard to "Restructuring" between OCSE and the practitioners involved in the work. OCSE believed that "Restructuring" provided an incentive requirement that would force states to improve their child support programs. The practitioners in this field were convinced that "Restructuring" had major operational deficiencies that would hurt the program and set it back to pre-1975 levels. Although the dramatic restructuring sought by OCSE was not implemented, it is mentioned here since a modified version is currently before Congress.

Federal funding for the Child Support Program should be provided to ensure services for all needy children. The costs of establishing paternity cases should be recognized for their immediate nature as compared to their long range benefits. The AFDC cost avoidance aspect and other services provided in doing non-AFDC work as well as the transient or interstate nature of the absent parent should be considered as major factors in operating the child support network.

Instead of restructuring, the federal funding participation was reduced from 75% to 70% effective October 1, 1982. Effective October 1, 1983, "incentive payments" will be reduced from 15% to 12%. The concern of practitioners in the field is that these reductions will cause program atrophy. The program may dwindle because state and county budgets are, in many instances, not able to carry the load. This reduction in the federal portion conveys a message to all absent parents that non-payment of debts, like child support, is acceptable. Rather than crippling the program by changing the financial structure, emphasis should be placed on enhancing program efficiency through improved program direction. Better laws for the rights of the child, stronger recognition of exisiting laws by the judicial branch, and improved enforcement will bring the savings needed to continue a very effective program.

THE DILEMMA OF NON-AFDC PROGRAM DIRECTION

A major problem facing all states at this time is how vigorously to pursue the non-AFDC program. The regulations which provide for federal financial participation require the states to provide child support service to both the AFDC and non-AFDC families. However, emphasis is on AFDC collection. Caseload comparisons indicate that the states vary considerably in their approach to working both caseloads. Some states concentrate their main effort in the AFDC area, while others focus on the non-AFDC caseload. Reasons for this vary widely; some states react to state statutes which provide their guidance, while others operate from administrative direction. The paradox each state must face is whether to follow the letter of the law or the direction from the Office of Child Support Enforcement.

The wide variance in the state programs is illustrated by the fact that in one state only 0.9 percentage of their cases are non-AFDC. At the opposite extreme, another state has 81.3 percentage of its cases in the non-AFDC category. The dilemma is highlighted by the fact that both states are apparently meeting federal compliance requirements.

It appears that the reason AFDC has been emphasized over the non-AFDC work has been the difficulty in measuring the cost avoiding aspects of the non-AFDC program. It is noteworthy that a federal contractor, Maximus Corporation, in their first year study of the Child Support Program, concluded that approximately $323 million a year in costs of AFDC assistance were avoided through the states' pursuit of non-AFDC collections. Conversely, in their second year study as published in February 1982, they denied the existence of this cost avoiding aspect and indicated that any savings obtained were essentially lost through increased participation by marginal income households in food stamps and medicaid benefits. Based on the contradictory nature of their reports from year-to-year, it must be concluded that their data at this point is certainly inconclusive.

Currently, OCSE is preparing a contract to determine the cost avoiding aspects of the non-AFDC program. Work on this contract is scheduled to start during the summer of 1983.

One of the primary groups affected by the non-AFDC program are former AFDC recipients who are working in marginal income jobs. Obviously, if child support can be collected for these individuals, then very frequently even minimum wage jobs will preclude their need for assistance. Therefore, the need for strong non-AFDC collection efforts has never been greater or more beneficial.

While both programs are funded at the 70% FFP rate, many states are unsure as to how vigorously to pursue the non-AFDC effort given the current federal philosophy of emphasizing AFDC. Practitioners believe that some direction should be initiated by the U.S. Congress in this area.

Several options are available:

- Increase federal funding for expansion of non-AFDC and interstate services. Required with this is a clear statement that this is the direction to be pursued and that non-AFDC services are important and necessary.
- Continue federal funding at the current level for non-AFDC and interstate services with optional state fees for recovery of costs. Required with this is a clear statement that this is the direction to be pursued and that non-AFDC services are important and necessary.

- Limit program participation to some prescribed level of income. Required with this is a clear statement that service is limited to low income individuals.
- Mandate recovery of costs by some uniform deduction from collections. Required with this is a clear statement that the custodial parent is to bear part of the costs in operating the program.
- Separate federal funding for the AFDC program from the non-AFDC and interstate portion of the program. Each segment should stand alone.

Problems Within the Present System

The present child support enforcement system lacks reliability and is very slow to react to children's needs. It takes months after a family has separated to procure a child support order and in over 50% of the cases the court order produces little or no results for the child. In comparison, when someone applies for AFDC, rules and regulations ensure that within a 45-day processing period, the eligible applicant will receive money. The AFDC grant is reliable; it comes in monthly and generally the amount is consistent. Thus, the child's subsistence is assured. On the other hand, the custodial parent will often find that the child support order and the enforcement efforts may not produce a payment in time to do any good. Private legal representation is available but most custodial parents find it difficult to meet their basic needs, much less afford legal services.

At first both the child support and AFDC systems appear complicated and intimidating. However, the AFDC system is easier to learn while allowing the client to function independently. This system also provides food stamps and medical care. On the other hand, a lay person has difficulty functioning within the child support system and often has to depend upon legal representation with no guarantee of payment where their children are concerned. It is hard for the custodial parent to understand the delays involved in enforcement and due process for the absent parent. Thus, the child's immediate needs often supercede allowing the child support system a chance to work.

The Child Support Program does offer some relief from these complications for the custodial parent. All the deficiencies and delays are still there but the program does assist the custodial parent with the enforcement process. The practitioners recognize that a child support system that speaks to these problems must be developed so the AFDC Program does not appear to be so attractive.

Strengths and Accomplishments Within the Present System

More children than ever before receive child support and a larger number of paternity establishments are occurring. Simply stated, the program has created substantial results. States are recognizing the positive influences and are trying to enhance their programs by passing more effective legislation. Wage assignments, chemical analysis to establish paternity, enforcement of support orders through administrative processes and intercepting state/federal tax refunds are improving the efficiency of the system as a whole. Steps have been taken in the area of paternity to reduce blood testing costs and legal fees. Performance measures are being initiated to focus on collection goals.

POLICY DECISIONS

Considerable progress has been made in the seven year history of the program. Still, challenges remain and basic questions need to be addressed.

- Should the Child Support Program be viewed as a service or revenue generation oriented program?
- Should child support, coupled with an employment readiness and placement program, become the safety net for custodial parents and children who experience financial deprivation when the absent parent leaves the home, or should they depend on AFDC?
- Should a complete system reform occur?

For purposes of discussion, wnen giving consideration to any type of system reform, it is important to recognize two factors. State administration, resources and environmental factors will vary to such extremes that development will vary within each state. At this point in time, the Title IV-D Child Support Enforcement Program does not represent all children. When reviewing the system as a whole, the variances in each state should be recognized and all children must be considered.

RECOMMENDATIONS

- A congressional oversight committee should be established to study the ongoing needs of children deprived of child support.
- Initiation of congressional hearings to provide an opportunity for an analysis of the nation's child support network and recommendation for program enhancement.
- The system must obtain initial support payments for the child in less than 45 days.
- National guidelines should be established to determine the child's support needs and allowance.
- A stronger interstate system needs to be developed.
- Legislation must be passed requiring states to have mandatory wage assignments for child support payments.
- Legislation must be passed requiring states to provide for an administrative or quasi-judicial system.
- Legislation must be passed requiring states to provide for offset of state income tax refunds.
- There must be a move from a passive to an active system.
- The emphasis needs to be on collections.
- All employers must be required to provide locate and employment information.

SUMMARY

In the past, federal, state and local governments have not placed enough emphasis on child support enforcement programs. It cannot be overlooked that this lack of emphasis was attributable to the fact that recoupment programs were not compatible with the existing social philosophy. As those times have changed, it may be helpful to refer back to a quote that is well over 100 years old and is still true today.

> "If we first knew where we are and whither we are attending,
> we would better know what to do and how to do it."
> -Abraham Lincoln

It should be the policy of this Administration and Congress that the federal government be actively involved in working with the states to develop more effective and efficient programs. With increased national emphasis, the Child Support Program will get the additional support and recognition so greatly needed at the state and local levels.

Over 13 million children need a system they can depend on. The vast nature of the problem requires attention at the national level. Absent parents cannot be allowed to ignore the most basic obligation -- that of supporting and caring for their children.

NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS

Purpose

The Council was formed to promote the development of legislation and/or policies which would have a positive effect upon the state and national Child Support Enforcement program. The Council provides a forum for the State Child Support Enforcement Administrators to discuss common problems and solutions associated with program administration. It also provides a structured medium for continuous communication with the Federal agencies as to the views, consensus and professional opinions of state practitioners.

Membership

Membership in this Council is open to each state's Child Support Enforcement Administrator.

Information

For additional information about the Child Support Program in a particular state, please contact that state's program administrator.

For more information about this report, contact one of the Council Officers listed below or the State Administrators within your region as listed on the next page.

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Mrs. KENNELLY. Mr. Abbott, who comes from the State of Utah which has one of the best programs in the United States, carefully spoke just before you came in, Mr. Campbell, and has a very important point. If you don't mind, would you just summarize what you said about the penalties and the funding for Mr. Campbell before he leaves and then have your questions because it is very important that he hears what you have to say.

Mr. ABBOTT. Yes, sir. I would be happy to review that once again.

Mr. CAMPBELL. I have to be at the White House in a minute. So if you can run it up in a hurry.

Mr. ABBOTT. In terms of your concept of perfect case and adequate case, I contacted my staff yesterday and had them do some quick analysis of the viability of this proposal.

Unfortunately, in the perfect case category, in your bill you indicate a 30-percent requirement needs to be met before any incentives are given. We only have 6 percent perfect cases.

That is by definition a case that is paid each and every month in the past 12. The fact of the matter is, they simply don't pay that regularly.

Now, in the adequate case category, your bill requires a 70-percent achievement there before any incentives are paid. That is defined as cases that pay 80 percent of the time in the last year. Again, unfortunately, we only have 9 percent of our cases in that category.

So I guess the message is that perhaps we do need to relook at the perfect and the adequate case categorization and maybe modify it downward somewhat.

Mr. CAMPBELL. I appreciate that. We also have to look at the enforcement that is in the bill, which you don't also have right now.

The provisions for garnishment of wages and provisions in my bill for liens, the provision for income tax refund offsets and things of that nature, we did take those into account and what impact they would have.

I could say yes, we can stay with those dismal figures. However, I had to take into consideration the overall impact that we were trying to seek, not to say that they are set in stone or anything, but that was the reason for the usage of those figures.

Mr. ABBOTT. I already have all those provisions within my state plan that would be made in your bill for other States.

Mr. CAMPBELL. How did you start taking Federal income tax returns in the State of Utah?

Mr. ABBOTT. You mean for non-AFDC?

Mr. CAMPBELL. Yes.

Mr. ABBOTT. Obviously, I don't do that.

Mr. CAMPBELL. I did not think so.

Mr. ABBOTT. But you see that would not really improve the perfect case category and very doubtfully the adequate.

Mr. CAMPBELL. It could improve the adequate a great deal, I think. There are a lot of provisions.

Mr. ABBOTT. It would only be a once-a-year payment.

Mr. CAMPBELL. Yes, and I am not arguing that those figures are specific and should be on that basis.

What I am saying is that with the tools for collection, you may have an excellent situation in your State. I don't know what you are doing with your interstate stuff. I have no idea.

You are not doing too much in non-AFDC, so I am just informed.

Mr. Abbott. That could be argued somewhat, but it's true our non-AFDC program is not our major thrust.

Mr. Campbell. I think that there are two things we have to put in here.

No. 1, we have to give you, the State, the tools that are going to make the program work.

The second thing is the provision we have just mentioned on funding of clearinghouse or information systems. We have to have it.

There is funding in my bill and there is implied funding in the administration's bill because it is in their budget, $20 million a year in each of those two bills. So don't let me say that there is no funding in them.

I totally concur with your statement because they had included it and you had no way, looking at their bill, to look back at the budget to see what was included there. But we are going to try to refine from the various formulas that we have here what we can come out as with a proper incentive.

The incentive is obviously going to have to require States to move on in getting their act together.

Yours is a good situation, I understand, comparatively speaking. I hope we can improve the whole so that yours will have to improve accordingly, comparatively speaking, to stay out front. That is essentially what we are talking about in the non-AFDC particularly.

But I do appreciate the figures that you have given on the AFDC. They are predominantly AFDC, and they are skewed to AFDC.

We have already had testimony that most State figures on AFDC are overestimated by the last panel, and obviously non-AFDC is underestimated in cases because many of them are not even in there before the agencies. So we are trying to get all of this together.

I wish I could pursue it a little further. I apologize for this. I got called out.

Mr. Abbott. Could I make one point?

Mr. Campbell. Go.

Mr. Abbott. The interseting thing is that in the non-AFDC caseload, a much higher percentage of those people pay. We are looking at 52 percent in the State of Utah of the non-AFDC individuals that we are able to collect child support from.

Now you turn that around and look at the AFDC side and it is only 19 percent.

Mr. Campbell. I will appreciate that, that the non-AFDC is the better potential for collection.

You have to also, of course, look at that 48 percent and how many of those you can keep out of AFDC by going early on it. That is what we are trying to look at, the whole problem.

It is going to take a joint effort. Quite frankly, no matter what we do here at the Federal level, unless the States have a total commitment through their Governor, through the programs there and make it a top priority, it ain't going to work.

Mr. **Abbott**. That is very true.

Mrs. **Kennelly**. Would you just tell him I said you can't do more for less no matter what?

Mr. **Campbell**. OK.

Mrs. **Kennelly**. Mr. Copeland, had you finished your testimony?

Mr. **Copeland**. Yes, Ma'am.

Mrs. **Kennelly**. The gentleman from Connecticut.

STATEMENT OF ANTHONY DiNALLO, CHIEF, CHILD SUPPORT ENFORCEMENT DIVISION, CONNECTICUT DEPARTMENT OF HUMAN RESOURCES

Mr. **DiNallo**. Madam Chairman, good afternoon. I am here to testify on behalf of my commissioner, James G. Harris, Jr., commissioner of the department of human resources.

I am Anthony DiNallo, chief of the child support program in the State of Connecticut. I also serve as the chairman of the National Child Support Advisory Council and I am a member of the executive board of the National Council of State Child Support Enforcement Administrators.

I am here today to express the views of the State of Connecticut in regards to House Resolution 2374, the Child Support Enforcement Improvements Act of 1983.

I will not attempt to review with you the extensive statistical data available regarding the child support program; the bottom line is that the majority of absent parents do not pay their child support. It is therefore with great excitement and pride that we support H.R. 2374.

The State of Connecticut is one of the most effective and efficient States and has been one of the top 10 States for the past 5 years in the ratio of total collections to total operating expenditures, percentage of AFDC absent parents making payments and collection of money owed to non-AFDC families.

We believe that some of the support enforcement tools included in this bill are part of the necessary foundation for a successful approach to the child support program.

Connecticut has been using some of these tools for many years. For example, we have mandatory laws for execution on wages, over 25 percent of our child support obligors for AFDC cases are under a wage execution order; we have a procedure for imposing liens against property, estate or claim of any kind for amounts owing under any court order for support; quasi-judicial procedures are available in the establishment and modification of support obligations and in the determination of paternity; we use voluntary wage deduction authorizations for support. The list can go on and on.

The proposal to require certain mandatory State laws is probably the kind of help the child support program needs to encourage States to pursue more effectively absent parents not meeting their child support obligations.

In many States there are insufficient or inadequate laws to enforce child support orders, and the enactment of the mandatory

State laws contained in this bill would certainly go a long way in correcting this problem.

However, I must caution you about the far-reaching impact of some of the provisions contained in the bill and the need to carefully reassess the feasibility of implementing certain provisions without adequate funding and within the proposed timeframe.

Specifically, while we agree that Congress intended the child support enforcement program to benefit all children owed support payments, we believe that the establishment of a clearinghouse to monitor the timeliness and accuracy of payments in all child support cases would require substantial equipment and personal resources, which the States do not have and cannot afford to purchase.

We believe also that a clearinghouse to monitor all support cases could be an infringement on the privacy of those persons who do not want their personal affairs monitored.

To develop and implement a clearinghouse or a comparable procedure within the proposed timeframe is unrealistic. I ought to know; in Connecticut we have been trying for over 3 years to develop a more comprehensive computerized system to deal with AFDC and non-AFDC cases.

Currently, the billing and collection function for AFDC cases is computerized. Over the past 3 years, we have worked with the office of child support enforcement and two Federal contractors, and what we have to show for our efforts are only a general system design and a detailed system design. We are a long way from implementation.

Perhaps a system of graduated incentives could be developed to encourage States to participate on a timely basis. Perhaps the clearinghouse should be made available only to those persons who need it or want it.

With regard to the collection of past-due support from Federal tax refunds for non-AFDC cases, we support the idea of making the IRS intercept program avilable to non-AFDC families.

We are concerned, however, with the following questions. Should the amount of past-due support in non-AFDC cases be reduced to a judgment before such amount can be certified to IRS?

If the amount of arrearage in non-AFDC cases is to be reduced to a judgment, who must initiate the action?

Will the courts be able to handle such a large volume of cases?

Where will the States get additional resources to implement this provision of the act? Or perhaps I should rephrase that question: Will the States get the additional resources to implement the provision of this act?

The timeframe for implementation—and I am referring to the IRS intercept program for non-AFDC cases—also seems unrealistic. There has been a tremendous amount of oversimplification in the IRS intercept program.

The fact is that in the intercept program for AFDC cases, States have had to spend considerable time and effort to identify cases, notify payors, hold hearings and finally distribute the money received from IRS and issue refunds when appropriate.

Contrary to what Mr. Morrison stated this morning, Connecticut, in fact, was one of the few States that sent out notices to those payors who were certified to IRS for the intercept program even before the Federal Government changed its regulations to provide for such notices. I believe that point needed to be made.

Most States are spread very thin already. Unless something drastic is done, there will not be resources available to deal with the additional workload generated by the IRS intercept program for non-AFDC families.

In conclusion, we strongly support strengthening of State child support enforcement procedures, only let us be a little more cautious with the timeframes for implementation and be mindful of the additional financial burden imposed on the States.

Thank you.

Chairman **Ford** [presiding]. Thank you very much.

The Chair recognizes Ms. Becker.

STATEMENT OF BONNIE LEE BECKER, DIRECTOR, OFFICE OF CHILD SUPPORT ENFORCEMENT, MINNESOTA DEPARTMENT OF PUBLIC WELFARE

Ms. **Becker**. Mr. Chairman and members of the subcommittee, my name is Bonnie L. Becker, and as director of the State of Minnesota Office of Child Support Enforcement. I submit this testimony on behalf of the State of Minnesota Department of Public Welfare, the Minnesota County Attorneys Association, the Minnesota Family Support and Recovery Council and the Hennepin County attorneys office, all of which are united and firm in their support of H.R. 2374, the Child Support Improvements Act of 1983.

We give you two reasons to support the child support enforcement provisions of this bill. One reason is the outrage over the irresponsibility of large numbers of parents in not contributing to the support of their children. The second reason is the need to control welfare costs in this nation.

One of every eight families in the State of Minnesota is headed by a single female parent. One-third of the children in these families under 18 years of age is living in poverty.

Most fathers are not paying adequate support, if they are paying at all. In fact, in over 50 percent of public assistance cases in Minnesota, the absent parent is both employed and paying no child support.

A humane society provides for its children. Our society does this by providing the AFDC program for families who cannot meet their own needs.

A just socieity insists that the absent parent face his responsibilities for his family. The Child Support Improvements Act speaks to that concern. This was the rationale behind the recent Minnesota legislation to strengthen child support enforcement, and is the rationale behind our strong support of the child support provisions of H.R. 2374.

Child support collections in the State of Minnesota have increased from $14.1 million in 1977 to over $43 million in 1982. Clearly this is a dramatic increase. Minnesota's increased collections program can be attributed largely to its progressive legislation.

Minnesota has had a State tax refund interception program in operation for 3 years. This program has allowed the child support agencies to intercept the State income and/or property tax refunds of any person whose family is on welfare and who has become delinquent in his support payments.

This has saved Minnesota taxpayers nearly $3 million in 1982 and collections of more than $3 million are expected in 1983. The intercept program has been so successful that in 1982 the program was expanded to include delinquent support owed to families not on welfare.

Minnesota has had wage withholding for child support since 1971. Recent amendments have broadened the definition of income subject to withholding for child support and maintenance, and mandated that every support or maintenance order provide that the support be withheld from the obligor's income if the obligor defaults in payment. These amendments have provided the child support agencies with a most effective and expeditious enforcement tool.

The omnibus child support enforcement bill passed in Minnesota's 1983 legislative session makes a strong statement on public policy and the rights of children to be supported by their natural parents.

That Minnesota omnibus bill requires that the courts apply uniform guidelines in establishing the level of the child support obligation. Further, that support orders must be adjusted periodically by the increase in the cost of living. Thus, a child will be guranteed a consistent and fair standard of living.

Further, the Minnesota legislature has provided the child support agency with additional remedies for the collection of support arrearages. Accrued arrearages will operate as a lien on the obligor's real property.

In addition, the court may order that payments on arrearages be withheld from the obligor's income and submitted to the child support agency.

The importance of statutory mandates such as these have been recognized in the Child Support Improvements Act. State judicial bodies must be convinced that child support enforcement is essential. The public must be convinced that absent parents have a responsibility to contribute to the cost of raising their own children.

Clearly the title IV-D program provides an alternative to public assistance. The title IV-D program provides child support collection services to both public assistance recipients and those custodial parents not receiving public assistance.

In Minnesota, 37 percent of all child support collected through the title IV-D program goes directly to custodial parents to aid in supporting children.

The nonpublic assistance portion of the title IV-D program does not return dollars to Government. However, it fulfills an important Government interest in assuring that parents, not the Government, are the primary support of children.

The Child Support Improvements Act would provide a clear statement of purpose for the title IV-D program. It would state that the purpose of the program is not only to reimburse public assistance but to secure child support for all children.

The Child Support Improvements Act would strengthen the intent of the program and would provide additional tools to assist in collection of child support for nonpublic assistance recipients, such as the expansion of the tax intercept program and the establishment of State clearinghouses.

The substantive legislative enactments in Minnesota in recent years were targeted at child support enforcement problems. That is not unique to Minnesota.

In fact, in numerous other jurisdictions throughout our country the situation is even more critical. Delays in interstate support matters of 9 months and beyond are not uncommon when one State is dependent on another for enforcement action.

In approximately 15 to 20 percent of our child support cases, Minnesota must rely on another jurisdiction for enforcement because the absent parent lives or works outside of the State.

Whether or not a Minnesota family receives child support in these cases depends largely on the statutes enacted by the other State or territory. If little or no emphasis is placed on child support enforcement in the other State, our hands are tied and our offer of enforcement services to the family becomes merely a gesture.

In conclusion, 8 years have passed since the enactment of title IV-D of the Social Security Act. These 8 years have taught us that State legislatures have to be convinced that their child support and paternity laws need to be strengthened.

Increased national emphasis will gain the title IV-D child support program the additional support and recognition it needs at the State and local levels.

For these reasons, the strong remedies of the Child Support Improvements Act of 1983 are essential to the overall child support enforcement effort in this country.

Thank you.

Mrs. **Kennelly**. Thank you.

[The statement of Ms. Becker follows:]

STATEMENT OF BONNIE L. BECKER, DIRECTOR, OFFICE OF CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF PUBLIC WELFARE, STATE OF MINNESOTA

Mr. Chairman, Members of the Subcommittee: My name is Bonnie L. Becker and as Director of the State of Minnesota—Office of Child Support Enforcement, I submit this testimony on behalf of the Minnesota Department of Public Welfare, the Minnesota County Attorneys Association, the Minnesota Family Support and Recovery Council, and the Hennepin County Attorneys Office, all of which are united and firm in their support of H.R. 2374, the Child Support Improvements Act of 1983.

We give you two reasons to support the child support enforcement provisions of this bill. One reason is the outrage over the irresponsibility of large numbers of parents in not contributing to the support of their children. The second reason is the need to control welfare costs in this nation.

One of every eight families in the State of Minnesota is headed by a single female parent. One-third of the children in these families under eighteen years of age is living in poverty. Most fathers are not paying adequate support, if they are paying at all. In fact, in over 50 percent of public assistance cases in Minnesota, the absent parent is both employed and paying no child support.

A humane society provides for its children. Our society does this by providing the AFDC program for families who cannot meet their own needs. A just society insists that the absent parent face his responsibilities for his family. The Child Support Improvements Act speaks to that concern. This was the rationale behind the recent Minnesota legislation to strengthen child support enforcement, and is the rationale behind our strong support of the child support provisions of H.R. 2374.

Child support collections in the State of Minnesota have increased from 14.1 million dollars in 1977 to over 43 million dollars in 1982. Clearly this is a dramatic increase. Minnesota's successful collections program can be attributed largely to its progressive legislation.

Minnesota has had a state tax refund interception program in operation for three years. This program has allowed the child support agencies to intercept the state income and/or property tax refunds of any person whose family is on welfare and who has become delinquent in his support payments. This has saved Minnesota taxpayers nearly 3 million dollars in 1982 and collections of more than 3 million are expected in 1983. The intercept program has been so successful that in 1982 the program was expanded to include delinquent support owed to families not on welfare.

Minnesota has had wage withholding for child support since 1971. Recent amendments have broadened the definition of income subject to withholding for child support and maintenance, and mandated that every support or maintenance order provide that the support be withheld from the obligor's income if the obligor defaults in payment. These amendments have provided the child support agencies with a most effective and expeditious tool.

Minnesota's experience with tax refund intercept and income withholding has provided a model for the comparable components proposed by the Child Support Enforcement Improvements Act.

The Omnibus Child Support Enforcement bill passed in Minnesota's 1983 legislative session makes a strong statement on public policy and the rights of children to be supported by their natural parents. That Minnesota Omnibus bill requires that the courts apply uniform guidelines in establishing the level of the child support obligation; further, that support orders must be adjusted periodically by the increase in the cost of living. Thus, a child will be guaranteed a consistent and fair standard of support. Further, the Minnesota legislature has provided the child support agency with additional remedies for the collection of support arrearages. Accrued arrearages will operate as a lien on the obligor's real property. In addition, the court may order that payments on arrearages be withheld from the obligor's income and submitted to the child support agency.

The importance of statutory mandates such as these have been recognized in the Child Support Enforcement Improvements Act. State judicial bodies must be convinced that child support enforcement is essential. The public must be convinced that absent parents have a responsibility to contribute to the cost of raising their own children. Clearly the Title IV-D program provides an alternative to public assistance.

The Title IV-D program provides child support collection services to both public assistance recipients and those custodial parents not receiving public assistance. In Minnesota 37 percent of all child support collected through the Title IV-D program goes directly to custodial parents to aid in supporting children.

The non-public assistance portion of the Title IV-D program does not return dollars to government. However, it fulfills an important government interest in assuring that parents, not the government, are the primary support of children. The Child Support Enforcement Improvements Act would provide a clear statement of purpose for the Title IV-D program. It would state that the purpose of the program is not only to reimburse public assistance but to secure child support for all children. The Child Support Enforcement Improvements Act would strengthen the intent of the program and would provide additional tools to assist in collection of child support for non-public assistance recipients such as the expansion of the tax intercept program and the establishment of state clearinghouses.

The substantive legislative enactments in Minnesota in recent years were targeted at a child support enforcement problem that is not unique to Minnesota. In fact, in numerous other jurisdictions throughout our country the situation is even more critical. Delays in interstate support matters of nine months and beyond are not uncommon when one state is dependent on another for enforcement action. In approximately 15-20 percent of our child support cases, Minnesota must rely on another jurisdiction for enforcement because the absent parent lives or works outside of the state.

Whether or not a Minnesota family receives child support in these cases depends largely on the statutes enacted by the other state or territory. If little or no emphasis is placed on child support enforcement in the other state, our hands are tied and our offer of enforcement services to the family becomes merely a gesture.

The aforementioned issues and many others were studied in depth by a Child Support Enforcement Task Force created by the Hennepin County Board of Commissioners in July, 1981. Hennepin County has a population of 948,470 and includes the City of Minneapolis, the largest metropolitan area in the State of Minnesota. Task Force members were selected whose positions and experience moved them to contribute to the resolution of the issues surrounding the child enforcement program.

They were charged to review the county's current policies and procedures in the child support system; compare those policies and procedures to those in effect in other jurisdictions; determine what changes would be appropriate; and develop recommendations for effecting those changes. Many of those recommendations give impetus to the enactment of Minnesota's 1983 Omnibus Child Support bill.

Eight years have passed since the enactment of Title IV-D of the Social Security Act. These eight years have taught us that State legislatures have to be convinced that their child support and paternity laws need to be strengthened. Increased national emphasis will gain the Title IV-D child support program the additional support and recognition it needs at the State and local levels. For these reasons the strong remedies of the Child Support Enforcement Improvements Act of 1983, H.R. 2374, are essential to the overall child support effort in this country.

Mrs. KENNELLY. Next.

STATEMENT OF MARY ANN COOK, DIRECTOR OF PLANNING AND IMPLEMENTATION FOR ECONOMIC ASSISTANCE, DIVISION OF COMMUNITY SERVICES, WISCONSIN DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Ms. COOK. My name is Mary Ann Cook and I am the director of planning and implementation for economic assistance for the Wisconsin Department of Health and Social Services.

I think I am a pretty fair bureaucrat, and I explained all the stuff about timeframes and money in my written statement, so I won't report it here. Except I would ask you to ignore any reference to the administration's proposal because it apparently changed some time while I was over the Ohio River this morning. We referred to the bill that was on my desk when I prepared my testimony.

I would like to use the time I have to talk to you to describe a little bit about the new legislation which has just been enacted in Wisconsin and what we are trying to do in the new child support initiative, and explain briefly how I think it relates to the bills that are before you today.

Wisconsin's child support system already incorporates most of the features proposed as national policy which are considered today. The State has a family court system which has commissioners who use administrative guidance to determine support amounts.

We already have the equivalent of a clearinghouse in terms of procedure: All child support payments for all child supporters. AFDC and non-AFDC are made to the clerk of courts who records and disburses them.

The IV-D program works with the court commissioners and local law enforcement in every county. The State uses wage assignments for delinquency. We began to implement medical support liability on January 1 of this year.

In the State fiscal year which ended last June 30, Wisconsin's IV-D program collected $38.2 million for AFDC recipients and that is 11 percent of the AFDC regular program costs. It also collected $14.5 million for nonrecipients.

By most standards, we seem to do a pretty fair job, but we think that when considered against a standard of children's needs and parents' ability to pay, it is not nearly good enough.

We therefore have asked our legislature and have recently received authority to conduct demonstrations of the child support programs in the State.

Essentially we have until 1987 to prove we can do it. The provisions of that new bill include providing that all child support obligations will be paid through automatic and immediate wage withholding, no delinquency day one. The determination of support obligations through a percentage of income standard that will be based upon absent parent gross income and the number of children, that is created in the statute as an option, for the court may either order a flat percentage of income or may consider the guidance for individual factors.

We have judges in 10 counties who have agreed to cooperate in using this percentage in every case where they think it is reasonable and if it is not, if they really have an equity problem, then they would document for us why they deviated from the percentage. We hope in this way to be able to learn a lot more about how to apply it and improve it.

We also receive authorization to contract with out-of-State collection agencies and attorneys to recover delinquent payments for persons obligated to support resident children which is a comment on interstate collections because when we go to private collection agencies and attorneys, the legislation provided for everyone.

This is not really a pilot and interest penalty the same as master charge, 1½ percent a month for delinquencies and provides for liens against property.

The State also has begun to automate part of its collection process and build child support data system which will have the ability to record, track and disburse and we expect that this capacity will increase collections with certainty and speed particularly by increasing the speed of response to delinquency.

Automated capacity is essential to large-scale wage withholding if you are going to disburse the payments in a timely manner.

I want to stress that these measures are just the first phase of a longer range plan to reform the child support system, including the part that supports the children not just the part that collects the money. We think we must first demonstrate our capacity to increase collections and therefore to limit public costs.

Our long-range goal is to propose to our legislature, once we have collected a lot of money, creation of a uniform child support payment system for all children in single-parent families and that would include a guaranteed minimum benefit for all children with public subsidy payments for those children whose parents lack sufficient income.

If the percentage standard was applied and the percentage still did not yield a minimum standard, then we are proposing to establish a public subsidy of the difference.

We think that for the subsidy portion we will also have to consider custodial parent income. We are not talking about using public funds to support an affluent child. There are situations where the custodial parent is affluent and the absent parent is not.

When this plan reaches fruition, all parents of absent children will receive support payments through a source that is indistinguishable. Our objective is to reduce or remove the welfare stigma and all that is associated with that from both the custodial parent and the child.

If a supplement to a child's support payment enables someone to get out of all the problems inherent in AFDC, work disincentives and that stigma on the children, et cetera, that is a major goal.

Parents will be expected to share their income with their children on the same basis that intact families do. In fact, families share income in the course of daily living. Children's living standards fluctuate with the family fortunes. They are supported every month and they are cared for off the top, not postponed until other obligations are met.

So our goal is to try and create a situation for the children which is as close as we can get to the standard they would have enjoyed had there been no separation.

The University of Wisconsin Institute for Research on Poverty has conducted extensive research for the National Office of Child Support Enforcement and for our department, and their analysis has suggested a standard for support payments which would be 17 percent of absent parent income for one child and 25 percent for two, 19 for five and 39 for four. That describes basically what the proposal is trying to accomplish.

The proposals that you have before you today to support collection mandate procedures that are already implemented in Wisconsin and which don't create substantial problems for us.

There are really two key concepts in the reform legislation which would be affected by the proposals here.

The wage withholding system: We propose to withhold support from day one for all parents in all cases, even though we will phase this in, because everything everyone has told you about you can't turn turn the key and have the system change overnight was true. We are going to apply it in 10 counties to start and apply it to all new cases to start and phase in other cases as they are scheduled for action for some other reason.

The lawyers concerned with these cases are already questioning the constitutionality of that decision. They are citing the Supreme Court decision which overruled the State law which allowed commercial creditors to garnishee without a hearing.

Now, clearly to me this is distinguishable. There is a big difference between a child support order which has due process in the creation of the order and signing a purchase agreement at heaven knows where and subsequently not making the payments.

However, there is this decision and they are developing whether wage withholding is constitutional for tax purposes.

The reason I raise this is speculative. They are saying you need another hearing. You need a hearing that shows the guy is delinquent, and that means back to court and a second whole series.

The reason I raise this is that I am afraid the language chosen to enforce child support collections nationally may be used to strengthen it.

H.R. 2374 provides for wage withholding when support is past due for 2 months and includes providing for voluntary assignments. H.R. 3354 requires the State system of mandatory withholding but does not get into a lot of the detail that the lawyers ask. They come up and say, "What does 'do' mean?" And I thought I knew what "do" meant, but apparently not.

Should the Congress choose to mandate withholding for overdue payments only, we would like to see the flexibility contained in Representative Campbell's proposal with language allowing for a mandatory system at State option. If the option is not included, some attorney is going to take up implementation of a mandatory system on the grounds that Congress clearly intended only a voluntary system.

So we would very much like to see that language incorporated in some way. That means we wait until it is litigated before we can implement it.

We do think that if you want to pursue a mandatory system as others have said, it will take a long time to phase it in.

We also support those provisions in H.R. 3354 which prohibit employers from taking adverse action against individuals whose wages are assigned, and I think that is very appropriate when the system is voluntary.

The other major concern is the determination of support amount. The language in the proposal requires an objective standard to guide in the establishment and modification of support obligations by measuring the amount of support needed and the ability of an absent parent to pay such support, such that comparable amounts are awarded in similar situations.

We totally agree with the concept of trying to get some comparability in court orders. There is no absent parent who cannot tell you about someone with a higher income and a lower order, and it creates a lot of disaffection with the system.

I have less concern with this language as it sits than with horrible speculations about the possible regulations which may insue about what you have to consider, so that some recognition that a percentage of income is an objective standard to meet such a test and would be very helpful from our perspective.

We have seen courts determine father's ability to pay on the basis of money left over after all other obligations are met including payments on numerous States, and we think a State ought to be able to—we have seen absent parents go out and load up the consumer debt deliberately.

We think the State ought to be able to provide an expectation that parents be able to provide for their kids.

The percentage of income approach does have its problems. We are going to be doing some experimenting with the cooperating judges. In Wisconsin, a big issue is farming, but we are leaning toward using adjusted gross and some add-backs, including things like depreciation.

Do you know what the real money is, we are trying to find a way of finding real dollars.

I would like to for a minute address the question of the incentives which reward the non-AFDC cases, the question of the perfect cases and the acceptable cases in the Campbell bill. I don't know the numbers for our State but they are not any better than Utah and probably are not as good. In terms of how many cases are in perfect status, how many cases are in that acceptable status, I don't know. There is a desire to make it an incentive to reach for something higher than you now achieve but I think this formula needs some more development because it does not define what a caseload is.

It could create an incentive for a State to pick off the easy one, take the AFDC and all the clearly garnishable, and non-AFDC's and forget the rest and you don't want to create a situation where the percentages are, not to go after the relatively hard to collect. It doesn't say what a State does when someone comes in, do you accept, reject, how many do you get to ignore?

My parochial concern with that is that it could penalize a State like Wisconsin trying to create a universal system. If you are not selective in your caseload, your percentages are going to be different. Some kind of factor to also consider the universe out there to be collected as opposed to what the State does would be a fairer measure for the development of that kind of incentive.

I hope that this committee and staff with whom I have talked will stay interested in the Wisconsin Initiative. We hope to come back and bring you some reports on how well it is going. We would be greatly assisted if there were an expression of congressional interest in this kind of experiment, particularly as we get to the stage where we will be looking at a payment system.

There is now no clear waiver authority which would allow us to use the FFP or AFDC for this kind of system as opposed to the current welfare system.

Thank you.

[The prepared statement follows:]

STATEMENT OF MARY ANN COOK, DIVISION OF COMMUNITY SERVICES, WISCONSIN DEPARTMENT OF HEALTH AND SOCIAL SERVICES

For at least five years, researchers and policy analysts across the country have pointed to the rapid growth in numbers of children living in single parent families and to the growing incidence of poverty among these children. These studies have been confirmed by 1980 census data. While analysts differ in methodology, perspective, and detail, some common and common sense conclusion are evident:

(1) Divorce and separation are pandemic. They normally reduce the living standards of children and raise those of absent parents.

(2) A slim majority of these dependent children are entitled to receive support under a court order. Only a minority receive any support. Very few receive the full amount ordered.

(3) Support awards vary substantially. They bear no necessary relationship to the needs of the child or the income and assets of the absent parent.

(4) Absent parents can pay substantially more than they do pay.

These conclusions point to a crisis in the system for assuring that parental obligations are met. The failure to meet those obligations is at least partially responsible for the growing AFDC rolls. To the extent that child support improvement can reduce dependency on public aid, some of the problems associated with AFDC (rising costs, work disincentives, stigma for the children) can be reduced or eliminated.

I. WISCONSIN'S CHILD SUPPORT EXPERIENCE

Wisconsin's child support system already incorporates in some form many of the features proposed as national policy which are before you today. The State has a family court system with commissioners who use administrative guidelines to determine support amounts. All child support payments are made to the clerk of courts who records, tracks, and disburses them. The IV-D Program works with the family court commissioners and local law enforcement in every Wisconsin county. The State uses wage assignments in many cases of delinquency. It intercepts both State and Federal tax refunds. We began to implement Medical Support Liability provisions on January 1 of this year.

In the State fiscal year which ended June 30, 1983, Wisconsin's IV-D Program collected $38.2 million for AFDC recipients which is 11 percent of AFDC-Regular Program costs. It also collected $14.5 million for non-recipients. By most standards, we seem to do a pretty good job. But when considered against a standard of children's needs and parents' ability to pay, we know it is not nearly good enough.

II. THE CHILDREN'S SUPPORT INITIATIVE

Wisconsin's legislature has recently enacted reform provisions intended to test several basic concepts to improve support collections. These concepts will be implemented first in demonstration counties whose judges voluntarily cooperate. They include:

All child support obligations will be paid through immediate automatic payroll withholding.

Determination of support obligations through a "percentage of income standard" based upon absent parent gross income and the number of children.

Authorization to contract with out-of-state collection agencies and attorneys to recover delinquent payments from persons obligated to support resident children.

An interest penalty of 1.5 percent monthly for delinquent payments.

Provisions for liens against the property of delinquents.

The State has begun the process of automating parts of the collection process and is building a child support data base which will provide the ability to record, track, and disburse payments. We expect this capacity to increase both the certainty of collection and the speed of response to delinquency. An automated capacity is essential to our proposal for large scale wage withholding.

These measures are the first phase of a long range plan to reform totally the system which supports our children. After we have demonstrated the capacity to greatly increase collections and thus to reduce public costs, we intend to propose to our legislature:

Creation of a uniform child support payment system for all children in single parent families.

A guaranteed minimum benefit for all children, with public subsidies of payments for those children whose parents lack sufficient income. This portion of the proposal will also consider custodial parent income to assure that public funds do not subsidize children whose families have adequate income.

When this plan reaches fruition, all children of absent parents will receive support payments whose source is indistinguishable. Children whose parent's payments exceed the minimum guarantee will receive the larger amount. Those whose parents have little or no income will receive a minimum payment which includes some public funding.

Parents will be expected to share their income with their children on the same basis that intact families do. Intact families share income in the course of daily living. Children's living standards fluctuate with family fortunes. They are supported every month and are cared for "off-the-top" not postponed until other obligations are met. Research conducted for our Department by the University of Wisconsin-Institute for Research on Poverty, state has produced a "normative standard" for support payments: 17 percent of absent parent income for one child, 25 percent of absent parent income for two children, 29 percent of absent parent income for three children, 31 percent of absent parent income for four children.

The goal of Wisconsin's Initiatives is to approximate for the State a clear societal expectation, applied uniformly to all divorces, separations, and paternity cases. Children are entitled to the standard of living which they would have enjoyed had the family remained intact. Where parental income cannot provide a minimal standard for the children, tax dollars would supplement their payments to meet that standard.

III. DRAFT PROPOSALS AND THE WISCONSIN INITIATIVE

The proposals before you intend to enhance support collection. They mandate some procedures which are already implemented in Wisconsin and which have not created substantial administrative problems for us. These include tax interecpt, medical support liability, sophisticated testing for paternity cases, procedures for establishing paternity when alleged fathers refuse to cooperate, and administrative procedures to assist in establishing, modifying, and collecting support.

The two key concepts of the State's new reform legislation—automatic wage assignment and the percentage standard may be inadvertently limited by some of the proposed requirements. We are concerned that if specific procedures are mandated, these may be construed as limiting the State's ability to implement its own more stringent provisions, or at least to do so using the IV-D collection system.

A. Wage withholding

Wisconsin proposes to withhold support owed from all absent parents without waiting for arrearages to develop. The new provisions will be implemented initially in up to 10 pilot counties and will be phased into the case load. They will be applied to all new cases and to all cases in which any new court action is taken. This statute does allow judges the discretion not to withhold upon a showing of good cause not to do so.

The lawyers concerned with these issues are already questioning the constitutionality of these provisions—citing a Supreme Court decision which overruled a state law allowing commercial creditors to garnishee wages without a hearing. Clearly, the cases are distinguishable when due process is afforded in determination of the obligation. A child support obligation originates with a court order not a purchase agreement. Clearly, wage withholding is constitutional for tax purposes. Nonetheless, an argument is being developed that no wage withholding is possible without a separate hearing and order on the subject, one which would require the court to find some reason for this procedure such as failure to pay other bills. Since our goal is simplifying this process, assuring uniform and timely collection, and reducing the delays and court time involved, any requirement for two hearings would be counterproductive. Evidence that someone might not pay would be difficult to establish in many cases. I am so expert on consumer credit problems, but given the widespread non-payment of support, I find it hard to believe that payment of other bills is any sure indicator of payment of support obligations.

This argument is still speculative. I raise it because I fear that the language chosen to enforce child support collections nationally may be used to strengthen it. H.R. 2374 provides for wage withholding when support is past due for two months and includes provisions for voluntary wage assignments. H.R. 3354 requires a state system of mandatory withholding and does not definitively answer some of the questions raised by the lawyers—i.e., what does "due" mean? Should the Congress choose to mandate withholding for overdue payments only, we would like to see the flexibility contained in Representative Campbell's proposal with language allowing for a mandatory system at state option. If the option is not included, some attorney is going to tie up implementation of a mandatory system on the grounds that Congress clearly intended only a voluntary system, unless support is two or more months overdue.

Should the Congress choose to establish a mandatory system, some provision must be made to allow for phasing in its implementation. We firmly believe that distinctions should not be made in collections policy between AFDC families and other children in need of support. But all of the case load cannot be converted quickly. An extensive effort at automation (which always takes twice as long as you think it will) is necessary to really manage all cases. The practical consideration involved, including the need to design systems compatible with employer payroll procedures, are the reason we have chosen to implement in selected counties at first and to begin with new cases and those scheduled for action of some kind.

Finally, we also support those provisions of H.R. 3354 which prohibit employers from taking adverse action against individuals whose wages are assigned. These provisions are appropriate whether the system is voluntary or mandatory.

B. Determination of support amounts

H.R. 2374 would require states to choose three of five optional procedures, one of which is ". . . an objective standard to guide in the establishment and modification of support obligations by measuring the amount of support needed and the ability of an absent parent to pay such support, such that comparable amounts of support are awarded in similar situations." We agree that disparity in court orders in one reason for widespread disaffection with the system and may contribute to failure to pay. Very few absent parents cannot tell you a story of someone else with a higher income and a lower support order. For the past few years, Wisconsin has been using guidelines to assist courts in determining support which are designed to take the factors described into account. We believe they have been a considerable improvement and have brought more equity to these determinations. Judges and family court commissioners assisted in developing them and have applauded the results. Nonetheless, we do not believe that they go far enough. The extensive research we have done provides convincing evidence that a percentage of income is a much simpler standard and is more equitable. We wish to avoid situations in which "ability to pay" becomes "discretionary income available after all other bills are paid, including the payments on the new car." States should be able to expect parents to provide for their children first and to adjust other aspects of their financial situation accordingly.

There are some problems in the "percentage of income" approach. We believe it will work well for wage earners. But more refinement is needed. It is not clear how this approach should be applied to farm and entrepreneurial income, for example. We are leaning to using adjusted gross income with some addbacks such as depreciation. The new Wisconsin statute, therefore, creates a presumption in favor of the percentage, but allows the court to make a separate finding when appropriate and to alter the order. Judges cooperating with this initiative have agreed to use the percentage in all cases possible and to document the reasons for variation when they believe it is necessary. In this way, we hope to improve and refine the system and to modify the implementing rules over time.

Our immediate concern is less with this language than with the possibilities inherent in its subsequent administrative interpretation. We believe that some language which acknowledges that a percentage approach as meets the objective standard of H.R. 2374 would resolve these concerns.

IV. ADMINISTRATION AND FUNDING

Every good bureaucrat arrives at last at administrative problems and funding. Federal financial participation and the criteria which determines a state's share are fundamental to the ability to implement program improvements. Both the Campbell bill and the Administration's proposal radically alter current arrangements. The Administration reiterates last year's proposals to deduct administration from collections and to share the remainder in the same proportion as the AFDC match rate. The compromise achieved last year reduced both federal administrative cost sharing and the incentive. This year's proposal is even less acceptable because it specifies neither the amounts nor the criteria for "recognition" payments. No state can plan to expand its activities without some assurances of what funding levels will be.

The Campbell concept of creating incentives which reward non-AFDC and interstate collections has real merit. I do not have the data on case-specific performance necessary to comment intelligently on the adequacy of the specific measures and threshold established for these incentives. From the summary, however, it appears that more attention is required in defining "case" and developing criteria by which a state accepts, rejects, or ignores non-AFDC cases. Incentives based on the percentage of case load in "perfect" or "acceptable" status could have undesirable effects. They could serve as incentives to reduce support orders or to process only the easily collectible. These provisions could penalize an attempt like Wisconsin's to create a universal system. Perhaps the addition of a factor reflecting the proportion of potential case load served would ameliorate this difficulty.

The incentive funding provided for development of automated systems contained in both the Campbell and Administration proposals will have a positive impact on systems development. I would urge you to provide that these funds be granted on the basis of performance standards (specifications about what the system must be able to do) rather than on detailed prescription of its design. This will allow the states to adapt and innovate while meeting the law's intent.

We do support the Administration's proposals to increase the availability of parent locator services, to extend 1115 demonstration authority to child support enforcement, and to recognize collections for foster care payments. The requirements of H.R. 2374 that states provide for withholding support from residents whose child lives in another state are most welcome. These may be difficult to implement, but are essential to assuring equity nationally and to eliminate the option of avoiding obligations by crossing a state line. The Wisconsin Reform Package includes authority to contract with out-of-state attorneys and collection agencies. This tool will be of limited value, however, since the fees for such services run up to one-third of the amount collected. It is more useful as a deterrent than as a practical collection device. We would withhold for other states and request similar practices from them.

Three of these proposals mandate wage reporting systems. Wisconsin employers now report wages only in the aggregate. Opposition to requiring individual reports stems from the fear that additional paperwork burdens will contribute to employer decisions to leave the State. A national requirement would eliminate that concern.

Finally, I have already alluded to the problems of implementing wage withholding on all cases in a limited period of time. H.R. 2374 requires the states to maintain a clearinghouse or comparable procedure through which all payments are made, tracked, and disbursed. We have a head start in that direction with clerks of court providing the function and systems design underway. But I doubt if it will be fully operational by January 1, 1985. I am sure that no state which has not begun already can meet that deadline.

V. LONG RANGE PLANS

I have described briefly our plan to move from enhanced collections to an universal payment system. Wisconsin cannot proceed in that area without two preconditions. First, we must demonstrate through the effectiveness of our collections that the proposed subsidy will be cost effective. Second, we will need federal cooperation to use federal funds which would have been paid to AFDC recipients to assist us in providing the child support payments when parental resources are inadequate. No clear authority to waive the complex provisions of federal regulations governing AFDC eligibility for purposes of piloting a child support alternative exists. You could greatly assist us in pioneering this approach through an expression of Congressional interest. I am sure we can work cooperatively with DHSS to assure that federal funds are not at undue risk in developing such a pilot proposal. We would like to be able to return with more concrete demonstration proposals after we have begun to establish the necessary collections record and to work out more details on a payment system.

Chairman FORD. Thank you, Ms. Cook.

I want to apologize for not being here when the panel first started to testify and apologize to each of you.

Let me commend you for your testimony, and I again apologize for not hearing all of it. I will go through it.

Mrs. Kennelly had to go vote.

Listening to parts of your testimony, are you responding to the non-AFDC?

Ms. COOK. Yes, to make it universal, everybody top to bottom.

Right now we do some AFDC collections but it is not as good as it should be.

Chairman FORD. You seem to be off to a good start but I don't want the fat cats to get away and run away.

We don't want to give the appearance that we want to enforce this legislation and let the rich walk away.

Ms. COOK. There are real technical problems when you talk about how to divide money at the very high levels of income. How do you deal with the tax laywers, these kinds of things? If we could get a State system that got 95 percent of the folks, people who have a flotilla of lawyers on each side can probably take care of themselves, and the vast majority of people do not.

A percentage of income is a percentage of income regardless of how well-to-do you are. That is one of the things that created some opposition when this was proposed in Wisconsin, because there are some people whose philosophical approach is that as long as the kid's minimum needs are provided for, as long as this child is not on AFDC, then it is nobody's business, and the parent has met the obligation.

You support the child, as the child would have been supported but for the split. If you have an upper income family and you got an upper income child. The support is greater than mere survival for children whose parents earn incomes at those levels, is the concept behind this proposal.

Chairman FORD. A working mother earning income who could not qualify for public assistance; we are just as concerned with those who are neglecting their obligations to the children of this country who are from the wealthy side as well.

Ms. **Cook**. We have proposed that this be universal. Every divorce granted in our State would fall under these provisions.

Chairman **Ford**. How do you respond to the unemployment problem?

The father is out of work for a period of 2 years, does he have to pay back for the 2 years?

Ms. **Cook**. Right now we do in fact intercept unemployment compensation payments but then the amount would go down if the father were unemployed. We are trying to approximate what happens in an intact family. That includes the percentage of income theory which includes down as well as up.

Chairman **Ford**. How do you—what do you do about the unemployment benefits?

Ms. **Cook**. We intercept them at the State unemployment office. We do that now.

Chairman **Ford**. I am all in support of the legislation, but we don't want to go to the extreme with this.

Unemployment compensation benefits?

Ms. **Cook**. In Wisconsin they may be attached.

Chairman **Ford**. You are denying them their public assistance benefits?

Ms. **Cook**. No.

Chairman **Ford**. Basically, recipients who receive unemployment compensation in many States, unless they are homeowners—well, unemployment compensation in most States is a minimum. I know what you are trying to do is remove recipients off the AFDC roles, but what happens if a person has exhausted those benefits and there is no longer any income at all?

Ms. **Cook**. We do not attach unemployment compensation for arrearages but currently due support when there is an order now, but that order could be adjusted. When we talk about percentage of income, no income means no obligation, and the State money makes up the difference, if it is really no income, but the concept enacted by the Wisconsin Legislature goes in both directions.

The obligation in that sense would benefit an absent father who is genuinely out of work, if he was ordered to pay 15 percent of his income, and he had no income, 15 percent of no income is zero. When he went back to work, you would want that 15 or 17 percent, whatever it was.

Chairman **Ford**. What about the 15- or 18-month period in which the father is out of work, and he is only 15 percent, and the unemployment compensation is $110, 15 percent of $110, but what happens for the 15-month period?

Ms. **Cook**. That would not begin to be enough money to meet the needs of the child and we propose a subsidy during that period.

Chairman **Ford**. Fifteen percent is still deducted?

Ms. **Cook**. Yes.

Chairman **Ford**. What if he has exhausted all of those benefits?

Ms. **Cook**. He would have no obligation and have no arrearage.

Chairman **Ford**. When he is employed 15 months later he would not come back to pick up the arrearages?

Ms. **Cook**. If his income is zero and his court order says 15 percent of your income, then there is no obligation for that period.

There would be no arrearage created through that period.

Chairman FORD. What happens in a severe hardship case, $110 a week, $450 a month, utility bills in my hometown are $250 a month, average bill, and what happens to that father who is not able to pay his rent and utility bills alone, let alone the fact that he cannot eat?

Ms. COOK. The position of the legislature——

Chairman FORD. Severe hardship cases?

Ms. COOK. There is not a provision that creates an exception for severe hardship cases. There are other sources of public funding to assist those people but it is our feeling that those other public funds should be used for that purpose rather than saying that the first thing that goes is the child support. It doesn't mean that; I don't think that Wisconsin has been traditionally very generous in its social benefit system, that is severe hardship would be as severe.

Comparable to the number of hardship situations that exist for dependent children and custodial parents, at least they would not be building any arrearages during that period of time as long as the percentage standard were met. There would be no obligation on a person who really had no income which would prevent the problem of people building huge arrearages and the problem that creates.

Chairman FORD. What if he is self-employed?

Ms. COOK. That is a real problem. We are proposing that all wages be subject to withholding.

Chairman FORD. You have State law now?

Ms. COOK. Yes, it is.

I brought copies of the statute with me.

It is allowable now, we have several judges who have agreed to use it. Our legislature has said you got to 1987 to try this out and prove it. It is a sunsetting law.

Chairman FORD. The professionals and the nonsalaried weekly or monthly people would not be affected by this?

Ms. COOK. You cannot garnish someone who does not receive a wage. You can establish a percentage of income as the amount.

Chairman FORD. State income tax?

Ms. COOK. Yes, sir.

Chairman FORD. We talked to the Secretary earlier of HHS, and we talked about the setoff with IRS to support the withholdings from the IRS?

Ms. COOK. Yes, sir, we do.

Chairman FORD. Non-AFDC?

Ms. COOK. Yes, non-AFDC from income tax now. We do do it for State.

We do it now on the State income tax. Any parent with an arrearage may apply for certification.

Chairman FORD. Mr. Abbott.

Why are some States IV-D programs so much more effective than others? The Secretary testified earlier today. She talked about nailing some of the States which were much more effective than others. Would you respond?

Mr. ABBOTT. I would just like to touch on the unemployment benefit compensation problem, and what it amounts to in most States is that when a defendant is receiving unemployment compensation, the duty of support does continue to go on but what we try to do is basically get some kind of token payment out of him during that interim period. In the State of Utah, we will indicate to him that we would accept payment for between 15 and maybe as high as 25 percent of his unemployment compensation benefit.

In other words, we certainly don't want to go after the whole thing and leave him destitute. That is clearly not our intention and I think most States would mirror that situation.

In terms of the other question relative to why are some States so much better than others and the converse——

Chairman FORD. The program is a lot more effective in some States.

Mr. ABBOTT. The main reason is in terms of the support States receive from their Governors and from their legislative bodies. In my testimony I alluded to the fact that in many instances, the IV-D, the child support agency, is in fact the ugly duckling of the department of social services, and they are the last to get legislation, staff, computer programs, and all the kinds of things that they need to operate, and I believe that that is the most significant reason in terms of States success or failure in this program.

Chairman FORD. Do you support the IRS withholdings for non-AFDC?

Mr. ABBOTT. I certainly would. You must look at it rather carefully.

Several questions: One, should you in fact only go after amounts that have been reduced to judgment, therefore, assuring yourself that you are not going after more than is ordered. Second, if you have central registry information systems built up and all the support orders flow through that system, you will have a viable means of knowing how much is actually ordered, but in the alternative, if you are simply taking an affidavit from an individual as to an amount ordered, you could get yourself into all kinds of legal entanglements and lawsuits when it turns out that that was not the correct amount.

Chairman FORD. Do you think the child support enforcement program could be significantly improved without additional increase in Federal funds?

Mr. ABBOTT. I think it was Mrs. Kennelly who said you don't get more for less, and I would certainly concur with that statement.

The proposals that are being advocated, many of them would in fact increase the fiscal commitments needed for this program. I am concerned that the administration, although well-meaning, is again trying to march to a budget mark, and if we are going to improve this program, provide the women and children of this country their child support, we are going to have to invest a little bit more into it, I am afraid. So in answer to your question, I don't think that you can build a better national program without increased financial commitments.

Chairman FORD. Thank you very much.

Mr. Copeland, would you respond to the withholding with IRS for non-AFDC recipients? Tell me the position of the National Council of Child Support Enforcement. You might have mentioned it in your testimony, I don't know. I was not present.

Mr. Copeland. Certainly. There are a lot of us that heartily support the concept and a lot of us who are concerned about getting into the program because it will attract more people into the program.

We are not saying that people shouldn't be coming in but we are asking Congress to recognize what is going to happen. We are concerned that people are taking the approach that by simply getting more efficient, tomorrow morning, we can have a better child support program. That is simply not the case for the program as a whole.

The intercepting of the IRS refunds possibly is the best example of that. The nature of child support is that it is a cumulative process, and you are building on the records that have been established for quite some time. As you move into a court of law or anyplace where you are getting ready to attach or seize someone's property, you have to be correct and accurate in the seizure process. If not, you end up damaging the attachment process itself. We are very concerned that while the idea is an excellent idea, the funding is not going to be provided to build a mechanism to go in and do the attachments.

Now, in the State of Alaska, we have a program where we distribute revenue. Last year we distributed $1,000 to every man, woman, and child in the State. We intercepted that process for AFDC and non-AFDC cases, very similar to the interception of an IRS refund.

I have extensive records on all cases that I have in the system that made it very possible to go in and snag the $1,000 for everybody. If I only had the records computerized for the AFDC cases, it would have been virtually impossible to go out and make that intercept.

That same set of circumstances would apply to the IRS refunds, so you are going to have to take a look at just how accurate are the arrears. You have heard some calls for reducing them to judgments. Basically what they are saying is make sure that the arrears are accurate. I think it can be done. Possibly you could set it up so that only arrears that accrue from the effective date of the law are only arrears that are under judgment are subject to IRS intercept. I think it is very possible to set it up and do, but you have to look at the arrearages, and the mess that a lot of the records are in.

Chairman Ford. Thank you.

Mrs. Kennelly.

Mrs. Kennelly. Having chided the gentlewoman from New Jersey, I would have some trouble with the gentleman from Connecticut, really, you did not sound too excited about clearinghouses.

Do you have a clearinghouse in your State, Mr. Abbott?

Mr. Abbott. We do have a clearinghouse for the cases that are on our system, that being the AFDC and non-AFDC cases on our system. We do not have a clearinghouse in general terms.

The State of Minnesota does have a clearinghouse, if I am correct.

Mrs. Kennelly. Do you think the concept in the bills that we are presenting, the clearinghouse is a good concept?

Mr. Abbott. Yes, clearly the clearinghouse concept is a viable idea, and again our only concern with that proposal is, are you willing to in fact go for the extra funding to finance those kinds of systems, and estimates I recieved from the Office of Child Support Enforcement indicate that the cost of that nationally would be between $150 million and $200 million to finance across-the-country clearinghouse kinds of system.

Mrs. Kennelly. This morning Mrs. Heckler said it would be a 90 to 10 match, would that be adequate?

Mr. Abbott. I don't know if she did indicate or not but there was only $20 million set aside each year for that and I don't really think that is enough.

On the other hand, it is an entitlement program, so perhaps the money could be spent and reimbursed later, but I suspect that HHS would be reluctant to approve money over their $20 million original budget allocation.

Mrs. Kennelly. Is your clearinghouse mandatory?

Ms. Becker. We began our clearinghouse in Minnesota a couple of years ago when we expanded our wage withholding statutes to income withholding, income regardless of source. The way our income withholding statutes work is that every order coming out of the court, every new marriage dissolution or any action that is brought back into court for enforcement, it must come out of court with an income withholding order.

If there is a 30-day default in payment on that order, we implement the order automatically without returning to court. Also included in the statute is a mandate that the non-public-assistance person file an application with the State child support enforcement agency to receive our service and we pick it up from there. We were not able to, because of due-process considerations, grandfather in all of the old divorces. We started out 2 years ago with only those that default and all new orders.

If a private attorney brings a case into court, it must come out of court with an income withholding order. If there is no default, we never see that case in the child support enforcement agency. If there is a default of 30 days, we see the case and pick it up from there. That is how our clearinghouse works.

These components are all tied in together. I wanted to make a comment on the nonpublic assistance intercept, expanding it on a Federal level.

We fully support that, but we like too the provisions of Congressman Campbell's bill that allows us to intercept for cases on which we have kept arrearage records. If we have not kept track of the arrearages, kept the accounting of those arrearages, we get into a situation where it is mom's word against dad's on what payments have been made. I could see us getting into situations where we would be potentially liable for incorrect or erroneous submissions.

Chairman Ford. Excuse me for a minute, you are talking about making it retroactive and if we triggered it in the date of the legislation, it would not create the same problems?

Ms. Becker. If you started it from the date of the legislation forward rather than attempting to grandfather, that would be preferable.

Chairman Ford. I am sorry.

Mrs. Kennelly, go ahead.

Mr. **Abbott**. Could I just say a couple words about the clearinghouse concept in general, and these are negative views but you need to hear both sides.

They are not necessarily my views but they have been brought to my attention.

First of all, usually in this country we allow people the opportunity to perform under their own will before we subject them to a systemized way of doing something, and so that is one problem with the clearinghouse unless you simply add people after they have fallen delinquent and not performed in paying their child support.

I know lots of people who pay their child support diligently, and have for 10 years, and they would be very upset if they were all of a sudden placed in a State, local clearinghouse and that money ordered to flow through that and the family ended up getting some kind of a government-printed check and it depersonalizes the whole concept.

There is some benefit to the visitation of the children, a lot of absent parents may come over to the house, deliver the check, and visit the children. The children are aware that daddy cares and he is paying his child support. He is concerned with their well-being. If you go with a clearinghouse, I would suggest that you only go with it where nonperformance is the case rather than penalizing a lot of individuals who do pay their support.

Mrs. **Kennelly**. I would like to ask all of you this, and you may write me the answer. I saw the Secretary come and be very positive and upbeat, and some of us were so delighted to have a hearing, that we were positive and upbeat and congressional people came and spoke. Then we had a panel of women who had experienced the whole process that we are talking about and I guess it was Mr. Campbell that said, what we just saw was that the process is not working for non-AFDC.

If we could find one piece that would be the most important centerpiece of what we could do to begin at least to make it work, because we don't want to turn away from the AFDC, but this is the emphasis, and this is why we were able to get together. You claim you have the best program. What is it we have to do to make it work for the people who need it?

Mr. **Abbott**. First of all, don't cut the funding.

Mrs. **Kennelly**. I am with you on that one.

Mr. **Abbott**. I think if you look at the administration's proposal, and not in terms of the 60 percent FFP rate but leaving it at 70 percent, you can create a system that will perform with the other $150 million. That has a lot of possibility. We are looking forward to it over the next couple of weeks.

We met with the deputy director of the program and hoping to work out some viable alternatives for the distribution of that money but we are still up against that FFP cut and that is going to devastate many of the programs in this country. I don't say that to be an alarmist. It is not going to hurt my program. I can adapt either way, but some of the smaller States who don't have as effective a program, and I am talking about Kansas, Wyoming, Louisiana, and you will hear testimony later on from Louisiana that will substantiate what I am saying, they are going to be devastated by this FFP cut.

Mrs. KENNELLY. Funding is your answer?

Mr. ABBOTT. Funding along with some carrots and some sticks.

Mrs. KENNELLY. Ms. Becker.

Ms. BECKER. I believe that we have to be very clear in statute that the strong remedies are for both kinds of cases, and that is the legislative intent. This is a problem that we had had in Minnesota originally where we had some remedies available to AFDC cases and not available to nonpublic assistance cases.

In the past few legislative sessions we have been able to make those changes but in what you are doing now, those changes should be made up front.

Mrs. KENNELLY. Right out have it there?

Ms. BECKER. Very clear within the language of the statute.

Ms. COOK. I agree and the expectations that State cooperation for non-AFDC should be made clear. There was draft language that got to that point. We have just happily received from our legislature the ability to contract with private attorneys and collection agencies out of State, but they charge about a third of what you collect, so it is really not a cost-efficient collection mechanism. We have done it as part of the initiative, because we don't want people to think they can get away with it by crossing the State line, but it is a deterrent, not an effective device.

Mrs. KENNELLY. Thank you, Mr. Chairman.

Excuse me.

Mr. COPELAND. I heard you refer to the State of Utah as one of the most efficient programs and so forth, there are a lot of us that tend to bristle when we hear that, because part of the reason that the State of Utah is claimed to have such an effective program is that they have primarily targeted the program in the direction that the administration has wanted them to go over the past 3 or 4 years and then in the presentation of efficient State numbers, so to speak, their goals have been what has been presented.

The Secretary presented the fact that there are 10 States at the top and 10 at the bottom. A lot of the States that are heavy into the non-AFDC caseload are in those bottom ten States and we end up there, because we end up applying the law as we see that it should be, AFDC and non-AFDC, so that has been one of the big factors, that there has been different signals, different messages coming from Congress, then from the administration, then from Congress as to what we should be doing, so you can count the collection of child support several different ways, and then present any sort of effective program you would like in any direction you want.

First, you all have to establish clearly what you want us to do. Apparently this committee here is saying do both non-AFDC and AFDC. Once you get that down you can come back and hold the State accountable. That is one of the reasons the audit penalties have not been invoked.

The Federal Office of Child Support clearly recognizes they won't be able to make an audit penalty stand up because the message has been so scattered as to what we should do with those Federal funds.

A lot of States run Federal programs that the Federal audit calls ineffective and just opposite also, of course.

Chairman **Ford**. The director of the staff is from Utah, and he already made a request to go home and look at the program.

The other part of the staff is saying the committee ought to go to Germany and England to really get a good look at it.

The Chair will entertain both of those motions.

Mr. **Thomas**. I got here right at the right time.

I apologize for not being here. Mr. Abbott, you mentioned briefly something that has been of concern to me, and that is the relationship between visitation and payments.

It is almost always presented in terms of an adversarial relationship, you don't pay so you cannot see them, et cetera.

I believe that—out of sight, out of mind. But if you are able to be there, you can involve yourself. Do you have any reaction to a positive kind of reenforcement approach rather than waiting until it breaks down on this relationship between visitation or payment.

Mr. **Abbott**. Clearly the visitation issue is relevant, although the courts and the administrators, the bureaucrats, I guess, have traditionally said there is visitation and then there is payment, and they are separate issues. Ideally, if you can keep them joint issues, and keep them flowing, the children are much better off. I don't really know how realistically you place them together and make them work side by side, through legislative efforts or any other real way.

I really don't know how to deal with that problem.

Mr. **Thomas**. You mean the best State hasn't got any?

Mr. **Copeland**. The best State is primarily an AFDC State.

The area that the visitation issue develops and becomes the largest problem is in the area of non-AFDC. That is a basic fact of doing non-AFDC work.

The problem ends up four out of five guys that tell us I want to see my children and if I could, I would make any payments, no problem. Four out of five are just lying to us straight across-the-board, no question about it.

However, the one out of five that wants to see the children desperately, he probably becomes the most difficult collection case we have. However, if we could deal with his visitation issue, he probably would turn into one of the best paying cases we have so we end up creating one of the most difficult cases we have got with visitation, and in part of the testimony in my testimony I spoke to that issue.

Mr. **Thomas**. If you could clear it up, so you have no solution either in terms of linkage? Have you had experience, any programs?

Mr. **Copeland**. Most States deal with or have got some form of State legislation which says that visitation and child support are two distinctly different issues.

The State of Alaska's legislation in that area actually says something to the effect, obstruction of visitation is basically OK. It actually uses the term "obstruction of visitation."

There are remedies that the absent parent can go through which can bring about a fine against the custodial parents. It is really ludicrous to expect that could ever come about. As we get into the non-AFDC area which we are going to have to do, we will have to address that issue and it is much bigger than anybody is willing to give the issue credit for, primarily because our focus has been collections, let's go get the money and part of what we do is collect from people. We are constantly given one excuse after another and our business is to strip away the excuses.

However, of those excuses, one out of five people that come out at it is so ligitimate, it hurts. It is a really painful thing to the guy that cannot see the children and it creates a major collection problem.

Mr. THOMAS. Thank you, Mr. Chairman.

Chairman FORD. Mrs. Becker, we were certainly not overlooking Minnesota, it is just too cold up there.

The Chair would like to thank each of the panelists for appearing before the committee today.

The next panel will be Hon. June Galvin, judge; Lucas County, Ohio, Court of Common Pleas, Division of Domestic Relations; Louisiana District Attorneys Association, Sue Hunter; and the California District Attorneys Family Support Council, Ms. Edwina Peters, president.

I wish to welcome all three of you before the committee.

I would like to recognize any members.

STATEMENT OF HON. JUNE GALVIN, PRESIDING JUDGE, LUCAS COUNTY, OHIO, COURT OF COMMON PLEAS, DIVISION OF DOMESTIC RELATIONS

Judge GALVIN. Thank you, Mr. Chairman, members of the committee.

I am June Galvin, presiding judge of the Court of Common Pleas, Domestic Relations Division, in Toledo, Lucas County, Ohio. I am also on the Child Support Enforcement Committee. They have unanimously passed the following resolution:

> Whereas, this Nation was founded with stated constitutional purposes which include securing the blessings of liberty and happiness to ourselves and our posterity—our children; and
>
> Whereas, the preservation and protection of the family is vital to the existence and future of a free nation; and
>
> Whereas, the greatest social problem of our society, other than crime is the failure of parents to support their children, thereby endangering the future strength of this Nation; and
>
> Whereas, juvenile and family court judges in every State and territory recognize the devastating and far-reaching effect of nonsupport and the unfair burden imposed on the taxpayer to provide for such children; and
>
> Whereas, the Congress of the United States has previously enacted legislation to fund a Child Support Enforcement Program; and it is now indicated additional legislative initiative is necessary to fully accomplish the Congressional purposes;
>
> Now, therefore, be it *Resolved* That the National Council of Juvenile and Family Court Judges endorses the following proposals:
>
> 1. That payment of all court-ordered support shall be mandated through the State Court, or as the Court directs by its order.
>
> 2. That procedures be established to aid in the collection of support obligations, including, but not limited to:
>
> a. Withholding of wages in the amount of the current support order and a sum certain determined by the Court as payment on arrears if a payor fails to make payments for four (4) weeks, either consecutively, or cumulatively, with specific statutory direction as to due process;
>
> b. That the Courts shall develop quasi-judicial or administrative processes within constitutional requirements for entering and enforcing support orders;

c. That each State shall develop legislation to intercept its income tax refund, and/or unemployment compensation, where applicable, to pay support arrears, to be equally available for AFDC and non-AFDC recipients;

d. That provision be made for voluntary wage assignment for payment of support obligation;

e. That the use of the latest scientific methods for determining paternity shall be utilized.

Speaking on my own behalf now, I am here today to support legislative proposals for mandatory wage withholding administrative or quasi-judicial process for establishing and enforcing support orders, and to support the State tax intercept.

In addition to the duties common to judicial office, I have been responsible for establishing a child support collection agency which became operational in 1979 when the Ohio General Assembly mandated each Ohio county establish such an agency.

Other major provisions of the act—O.R.C. 2301.35—include a requirement that the Bureau of Support file the motion at the request of the payee, that the court order a wage withholding in every case where there is a failure to pay of 10 or more days, and that an employer may not discharge an employee when the court orders a withholding.

I had been on the bench for 2 years prior to this act, and have had, therefore, the opportunity to witness the impact of strong enforcement legislation on support collections and receive parental reaction to withholding of wages, in our community of some 465,000 residents.

Our current support caseload is 17,755. Prior to the Bureau's existence, the average annual increase was $500,000. Collections the first year increased $1½ million to $10,007,715; the second year, the increase was more than $3 million, to $13,046,195; and the third year, the increase was $2½ million, to $15,722,329; and last year, an increase of $1½ million, to $17,318,009.

The Bureau initially files a case upon complaint by the payee, or where there is money owed to the welfare department. As yet, support is not enforced automatically.

The court has long utilized the services of referees to establish support orders prior to final hearing, and the court developed an administrative hearing process at the Bureau for the initial step in enforcing support orders. In addition to the mandate of a wage withholding in every Bureau-intitiated case, the court decided to order a wage withholding on its own motion—O.R.C. 3113.21—in every case brought by a private party after a divorce involving any issue but change of custody and visitation. Our court, therefore, has a history of usage of procedures recommended for legislative action and before this committee.

Prior to 1979, the statutory authority for a wage withholding was not in common usage in our court. When it became mandatory as provided by statute and court policy, most payors were extremely resistant, fearing employer reprisal and termination of employment. In 4 years, we have not yet been notified that any employee has been discharged as a result of the court ordering, or an employee volunteering, a wage withholding.

Payees were somewhat resistant for the same reasons. After 4 years, we find that a small number of payors are voluntarily requesting a wage withholding when the court makes its initial order of support, and many attorneys offer a wage withholding as the routine method of solving nonsupport cases.

For the first time, I have received complimentary letters from custodial parents, indicating what the regular receipt of support has meant to them and the children.

One of the angriest payors I had before me finally thanked me for ordering a wage withholding. He related that every week when he wrote his check for support that he was reminded of his ex-spouse and the trauma of the judicial proceedings. Once the support was deducted from his pay, the unpleasant and recurring memories ceased.

The reaction of the majority of employers was that the deduction would be handled by their computer. The only real problems have been with small employers in that some refused to obey the court order to withhold.

One of the important provisions which is necessary to include in the act is that everyone who notifies the employer of a wage withholding should include notice of the Federal Consumer Protection Act.

We have had numerous other problems which the passage and the enactment of that statute have resolved.

My reasons for recommending the mandatory wage withholding are the following:

One, the national statistics now indicate that only 25 percent of single parents receive a part of moneys due them, with 28 percent receiving nothing.

Two, the Federal Government is reducing its financial participation in the program, leaving local governments, many pressed to do so, left to pick up a greater portion while the numbers of cases needing support enforcement are not decreasing.

Three, the least expensive method of securing payment of support as a wage withholding, in the vast majority of cases.

Four, there are other methods of securing payment. One is for the custodial parent to refuse visitation, which may well produce the payment, or it may cause the noncustodial parent to become so frustrated that he or she ceases all contact with the child, and support ceases indefinitely. Or the parent who is trying to foster a close relationship between the child and other parent may be forced to bring the absent parent back to court. This may entail out-of-pocket expenses for attorney fees and court costs, and perhaps lost wages due to court appearances. The usual remedy is to request that the parent be jailed, which is hardly conducive to improving relations between divorced parents.

Five, my last observations are more philosophical in nature, but I believe there is a growing attitude on the part of parents that welfare assistance is a right to which they are entitled without any obligation for either to repay society. Finally, my last observation results from the number of cases referred to our court counselors who handle visitation problems, where persons who were contacted by the Bureau and had not seen their children in years. As a brief example as to the effect that enforcement has on a family, I would relate one story. A very young couple who had two daughters, ages 1 and 3 at the time of divorce, separated, divorced, with the father having no contact with the children for 3 years. He remarried, and his new wife encouraged him to reestablish a relationship with his daughters, only after he became employed. His ex-wife, unemployed, began living with a boyfriend who was employed and supported the two children. When the mother initiated proceedings through the Bureau, a wage withholding was ordered, and the father initiated visitation which was ordered with a phasing in to allow him to get to know his children, and the mother returning to obtain her high school diploma with the father caring for the children. After obtaining her diploma, she eventually ended her relationship with the boyfriend, who had been abusive to her. She was able to support herself and her children thereafter, and the father has reestablished a relationship with the girls, as much as can occur in a divorce situation. Wage withholdings nip possible visitation problems in the bud in many cases.

There is no provision in present legislation concerning visitation, but I urge you to consider the needs of noncustodial parents to enforce visitation rights concurrently with the present legislation. The right to receive support and the right to visitation cannot be conditioned upon the happening of the other; however, neither should be given legislative priority, either.

My reasons for recommending a quasi-judicial or administrative process for establishing and enforcing court-ordered support are:

First, public pressure and State statutes to dispose of criminal cases in the judicial system have left insufficient docket time to handle the volume of support cases in a timely fashion.

Second, the process costs less. It disposes of more cases and results in larger collections. The administrative process enables a staff to devote its time uninterruptedly to a single issue, to become expert at it, to try innovative solutions which do not necessarily require legislative approval, and to avoid changes in philosophy as may occur when a judge rotates out of a family court division.

Third, the administrative process makes it possible to focus on the AFDC caseload; therefore, reduce the escalating costs to taxpayers to maintain the families of absent parents.

Finally, the use of the State tax intercept is one more useful tool for the collection of support that is needed, if it is cost effective. However, if this proposal is adopted, I urge you to require that the moneys collected from the intercept program be forwarded to the agency required by the court order to collect support.

In conclusion, our local experience, as well as impressive statistics from other States using the wage withholding routinely, indicates that there simply is no other more effective solution to the problem of nonpayment of support. To date, there have been many actors participating in the process: Courts, prosecutors, welfare department directors, IV-D directors, the Federal and State Governments, county commissioners. But the child support program is necessarily and permanently fragmented due to constitutional requirements of separation of powers and federalism.

None of us can or would change those provisions. Congress alone has the power to make a major impact in support collections and costs to taxpayers by solving a dilemma that those of us in the program have been unable to efficiently accomplish. The courts are the key to the enforcement process and need uniform tools.

The Federal, State, and local governments long ago deemed it wise fiscal policy to withhold taxes due them from taxpayers' wages so the Ship of State would run efficiently. Children deserve no less a priority or consideration. If the debts that were owed to American businesses, and the taxes that were due all levels of Government were in default at the rate that child support is, this problem would long ago have been solved.

Thank you for your concern with this national problem.

Chairman FORD. Ms. Hunter.

STATEMENT OF SUE P. HUNTER, ADMINISTRATOR, SUPPORT ENFORCEMENT DIVISION, OFFICE OF JEFFERSON PARISH DISTRICT ATTORNEY, AND PRESIDENT, LOUISIANA CHILD SUPPORT ENFORCEMENT ASSOCIATION, ON BEHALF OF LOUISIANA DISTRICT ATTORNEYS ASSOCIATION

Ms. HUNTER. Thank you. I am very grateful to have the opportunity to be here. I am Sue Hunter.

I am administrator of the Support Enforcement Division in the office of John M. Mamoulides, district attorney in Jefferson Parish.

That is a suburb of New Orleans.

I speak for the Louisiana District Attorneys Association, and I am president of the Louisiana Child Support Enforcement Association.

Since the administration bill was introduced, after my testimony reached Washington, I would like a chance to revise that for the record later on, but the two basic premises that I was making in that testimony still hold. We are willing and we want to give equal treatment to all of those who need our services, but we must have dependable and ongoing Federal resources to do it.

I am concerned because in Louisiana we think we have a pretty good program going now. This proposal that I have heard this morning could foul it up, and let me tell you why in just a moment. But I want you to think about this first.

What other Federal program with less than 23,000 employees do you know of that collected $1.7 billion from the Government in 1982?

Do you know of any?

There is a further note to that. Forty percent of that 23,000 employed, according to the report to Congress from OCSE, are under a cooperative agreement for the purchase of service.

How are they going to react to the proposal that we heard this morning? Are they willing or able to take this kind of change?

I am looking at what is going to happen in Louisiana on October 1, 1983, if this comes into effect.

Let me say initially that I am delighted that we have the concept of equal treatment for non-AFDC and AFDC, but what is going to happen in Louisiana is, we will be wrecked, absolutely wrecked, in less than 3 months, 2½ months.

There we get, the State gets, the Federal match assistance payments. They only get 6 percent of the incentives.

District attorneys get half as much money as the State, but we get 94 percent of the incentives that go into Louisiana, because we are the producers, we are the enforcers, the collectors.

Eighty percent of our cases in Louisiana are criminal, under criminal orders, both AFDC and non-AFDC, and the State Office of Support Enforcement Services has told us that 64 percent of the collections are due to the DA prosecutions.

What we will have with going into effect on October 1 would be a gap of $1.8 million.

Well, let me try it this way: The cost to the DA's would be $4.5 million.

By bringing that FFP down to 60 percent, we would be reimbursed $2.7 million, so there is a gap of $1.8 million there.

The local government is not going to pick up that kind of money. They just can't.

We already have an agreement with the State up until October 1 at least to continue, for them to fund 5 percent, so we are supposed to be getting our 75 percent instead of 70 now.

Some of the district attorney's offices are totally self-supporting; in other words, they don't get any money at all from the local governments.

They get their office run by the incentives and the FFP.

Am I coming through?

Mrs. KENNELLY. Yes.

Ms. HUNTER. All right.

The incentives that have been figured out at the 12 percent would be 1.2 million, so you see there is already a gap there.

If we go to 1.8 million, there is no way in the world, and I am sorry, but the DA's have higher priorities than child support enforcement; they are going to say goodbye.

They are going to pull out, and when they do, the support enforcement services in Louisiana will have to get all new judgments and lose that 64 percent of their collections, and they will not be able to collect $24 million in arrearage.

Instead of $24 million for total collections that they are projecting for AFDC and non-AFDC collections this year, take that back down to 36 percent of that, and Louisiana could expect to collect less than $6.2 million at a cost of $12 million, because they are going to have all of the costs, but they are not going to have the money.

Now, Louisiana is not one of those 10 great States we have been hearing about, but we are doing better.

If the DA's pull out, it certainly won't put us down into the 10 worst States, but there is going to be a lot of competition for the dubious honor for the 10 worst States.

My point on that is, I really think you all ought to think long and hard before you go forward on this at this time. There is great merit to this program, but it should not go into effect in 2½ months. Wait until 1984. Keep it at 70 percent now.

Arrange for the problems in advance instead of just throwing the whole thing into chaos. You have not had time to hear from the rest of the country, since this just started; it was introduced yesterday.

Louisiana has just finished their legislative session. Their budget is set, so this is going to really foul things up.

There are going to be different situations even within a State, if we go to this kind of formula.

Shreveport, La., is going to be absolutely ecstatic about this, because they have been griping. They have a very large non-AFDC caseload, so they should do very well. New Orleans and Jefferson, we have been trying to follow the mandates of the Federal Government, collect AFDC, so we probably won't do so well, so you need to make some adjustments as you go along.

Let me talk a little bit about the incentives. I know that we are going to have them in some form for us to do the job, and I realize the system that is included in the Campbell bill is merely a starting place, but I don't think that that incentive formula will be attainable in Louisiana.

It is too complex, too involved.

It would be very involved to track, and while this perfect case that we are hearing about, would you lose it all if somebody paid $5 less 1 month of the year? That is the kind of thing; it really would be pretty cumbersome, I think.

I heard Mr. Abbott talk about his Utah situation. I had the bookkeeper in my office yesterday to go through and sort of pull out things. She said that only 3.8 percent of our caseload has been on time and in full for the 12 months. Some progress has been made in the past few years to really realize even this limited success.

Another thing I was not clear about under Mr. Campbell's proposal is about the arrearage, and we get quite a lot of collections from arrearage, but that sounded like they were talking about ongoing support only, and I was curious about that.

Of course, the unemployment, the other thing that was in there, was awarded, if your grants were met or exceeded the needs for two people.

Yesterday, I signed off on a number of cases that were going onto the mechanized system, and I noticed that of the 13 cases, the average of that came to $116 per case.

The average grant in Louisiana is $138.

Mrs. KENNELLY. Per month?

Ms. HUNTER. Yes. That is for a mother and child, two people.

Chairman FORD. For the mother and one dependent?

Ms. HUNTER. Yes; right.

Another point about the incentives is, we would like to see them paid on a monthly basis. I am saying, we—just like we are going to continue—I don't know, but anyhow, back to the situation with the DA's office, if they are self-supporting, they need it; or self-sustaining, I should say; they need their checks coming in monthly to meet payroll. They can't wait to pay their people once a year.

So, incentives really should be done monthly, if possible.

We do not have an awful lot of non-AFDC cases in Jefferson Parish, but we are charging a $10 fee for locate services, even if we don't follow through on the full collections thing, and I don't believe that that $25 fee would really be so terrible.

You would get an awful lot of service for $25 if the payee went ahead and put in that much money, and we have had no complaints on the $10 fee that we have been charging and forwarding on to the State. We do not keep it.

Once we locate the absent parent, we give that information, so that she, in turn, can file her own charges and can get her support.

I really think we would be opposed to the collection fee on the, or for the, absent parent. That was introduced in a special session of the legislature and died a very early death in committee, so devastating a death that the Department of Health and Human Services would not even bring it up again, and it would be very difficult to pass, even if it is mandated.

We would need to know more about incentives, how they are determined, what they would be based on.

I understand the administration bill is kind of under regulations. Now, I have questioned whether that is going to give us reliable ongoing funding, if we are not going to know what we are going to be judged on and how we are going to get our incentives.

In terms of the Federal budget, we are a very small fish in a very large pond.

I read that State and local governments have received $314 million in revenue last year, and the Office of Child Support is trying to save $100 million; so I really think we need to compromise and do more to make the program more effective.

In terms of the $30 billion spent in AFDC, medicaid, food stamps, this is a very small thing.

There is a dilemma. This has to be a national program and can only be carried out by people at the State and local level, and we must work together.

Mrs. Kennelly had asked what we thought might be done to change. I think it is going to take a long time before it ever does. I think there has to be a national change in attitude to make paying child support accepted and the necessary thing to do rather than the reverse situation.

I think it is going to take a lot of publicity, a lot of public relations.

This is not the kind of publicity perhaps you would want, but at least it focused on the point of child support. This was in the San Antonio Express of July 8, so that is the kind of thing that we really need to come out.

I hope we can get all of those Members of Congress who are members of the Congressional Caucus on Women's Issues, to sign up for Child Support Enforcement Month, so we could get a national proclamation for the President. That would almost seem the natural thing for them to do, but I am told we are very short of cosponsors for that, Child Support Enforcement Month.

They are trying to get August 1983 designated by President Reagan, but they need a whole bunch more cosponsors in the House to make that work.

Those are the kinds of things that I see that are going to take a lot of time and a lot of people, and I think it can be done.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF SUE P. HUNTER, ADMINISTRATOR, SUPPORT ENFORCEMENT DIVISION, OFFICE OF JEFFERSON PARISH DISTRICT ATTORNEY, AND PRESIDENT, LOUISIANA CHILD SUPPORT ENFORCEMENT ASSOCIATION ON BEHALF OF LOUISIANA DISTRICT ATTORNEYS ASSOCIATION,

Mr. Chairman and Members of the Committee: We are grateful for this opportunity to testify on proposed changes to the Child Support Enforcement Program.

I am Sue P. Hunter, Administrator of the Support Enforcement Division in the office of District Attorney John M. Mamoulides in Jefferson Parish, Louisiana. I speak for the Louisiana District Attorneys Association and as President of the Louisiana Child Support Enforcement Association.

We are pleased that the Women's Congressional Caucus has seen fit to include child support in the Economic Equity Act. It opens the door for a genuine national debate on the future direction of the support enforcement program.

Senator Russell Long has described IV-D (child support) as the Ugly Duckling while IV-A (AFDC-Welfare) is Santa Claus. It's an apt description.

We are all aware of the enormous sums (some $30 billion annually) being spent through IV-A on Aid For Dependent Children, Medicaid and food stamps. It well may be time that Congress rethinks its approach to the issue of poverty among children. The decision could be made to shift focus from treatment of the symptom to the cause of the problem: lack of child support. If so, the Ugly Duckling will come into its own.

In comparison to the resources devoted to IV-A, Congress's investment in IV-D is miniscule. Yet the IV-D program collected almost $1.8 billion in child support last year—$2.99 for every $1 spent.

While child support enforcement has moved quite a distance in the past seven years, we take no pride in knowing that less than 50 percent of the women who were due support payments in 1981 received all they were due.

We should be doing better and we will. Proposals before Congress would give us more effective enforcement techniques which will further increase child support collections.

But to us the most significant point of the proposals is the emphasis shift from child support collected for welfare reimbursement to equal treatment for all children who need child support. The conflict of equal treatment will exist so long as federal funding continues to be dependent on the dollars collected for only some of the recipients who need our services.

Congress must make a basic public policy decision:

Will there be a cost effective child support enforcement program? Or will there be an effective national support enforcement program benefitting all the children who need support services?

Is it of greater public interest to have a program where the federal government recoups much, most, or all of its immediate investment or one which will recoup only some immediately with the sure knowledge that the long term investment will be repaid over and over?

We are greatly concerned that while sweeping changes are being proposed for child support enforcement (both in techniques and in numbers of individuals served) that proposals for reductions in the funding formula seem to be also going forward. If both should occur, state and local governments would simply not be in a position to carry out mandates of the federal legislation.

If Congress is not willing to fund the non-welfare portion of child support enforcement and the Administration pursues further changes in funding, either by going to a 65 percent Federal Financial Participation or to performance funding, the entire program could be in jeopardy. Expections of women across the country will be raised while services are more likely to be cut than expanded.

Louisiana may be typical of other states. Local governments cannot increase local match. The state relies heavily on district attorneys for enforcement. With reduced funding they will either reduce personnel or drop the program entirely. Our State Enforcement Services Office projects a 64 percent drop in AFDC collections without the district attorneys. Without them there would be interruption of services, increased welfare costs, and increased cost to the State. This in turn would translate to higher cost to the federal government through increased welfare grants.

Our request is that we be given the financial resources to do a good job. The funding formula must be adequate to cover the work involved. A realistic appraisal of money saved the federal government in welfare, medical benefits and food stamps for service to non-welfare cases must be completed. This factor should be figured into a new funding formula, allowing room for growth as resources become available for us to properly handle all those who need our services, and the women know we will provide them.

The issue of paternity establishment should also be considered when a funding formula is devised for equal treatment. With the growing percentage of out of wedlock births, efforts should be stepped up in this field. Instead, we must be quite selective. A major factor in our determination of a paternity suit filing is the work history of the alleged absent parent. Even if only 2 percent actually go to trail, as the Department of Health and Human Services avers, that 2 percent can be extremely expensive to a local office. We estimate up to $5,000 in cost for a paternity suit which goes as far as appeal, with the probable return to the taxpayer taking years, if ever. Without adequate funding, this aspect of the program will continue to lag.

We hope Congress chooses an effective national support enforcement program for all. This seems to us the most correct (logically, politically, morally and business wise).

Congress would still decide if non-welfare recipients should pay anything for such services. Opening the gates for everyone regardless of ability to pay for services will arouse immediate opposition from private attorneys who deal with domestic matters and will be threatened by loss of income.

Available statistics show the plummeting financial circumstances for the woman when divorce occurs. What a woman can afford to pay for an attorney for services one year may be totally wiped out the next because no one can locate that absent parent to get him to pay the child support he was supposed to.

On the other side of the coin, if a man agrees to pay child support and does so faithfully, why should he have to pay court costs or administrative fees on top of his child support?

Some states have set up fees for handling non-welfare cases, but we understand results have not been at all satisfactory. In other states, such as Louisiana, proposed legislation for fees met an early and decisive defeat in committee action. From all indications, a similar fate awaits all such future legislation in our state.

There is little doubt that many of the legislative remedies offered in the proposals before you will give badly needed enforcement techniques.

We support the automatic withholding of child support payments legislation introduced by Representative Roukema and co-sponsored by Representative Lindy Boggs and others. However, there are problems with fees on collections as discussed above. Louisiana enacted a mandatory wage assignment for delinquent child support last year. Once the Jefferson Juvenile Court Judges overcame their initial mistrust of Louisiana's new law, they have willingly signed court orders for us. Since employers are authorized to take $3 per paycheck for handling expenses, there has been little resistence from them. Even some payors have seemed relieved to have the issue settled for them.

Louisiana's state income tax offset on refunds will become effective January 1, 1985. While an average state tax refund of $120 is far less than the $500 from federal tax refunds we hope to collect $210,000 in child support from that source.

We continue to have reservations about administrative procedures. While they may appear effective in some states, serious questions about due process remain. We think that justice is better left to the courts, not to bureaucratic procedures.

One of the reasons advanced for this process is an overburdened court system. But if the court is moving as rapidly as the administrative process would, is it desirable to destroy a working system simply for the sake of creating a new system?

Another reason advocated for administrative process is escape from emotional confrontations found in courtroom situations. As a matter of fact, many, if not most, of the agreements which we obtain for child support now are voluntary and never go into court unless there is non-compliance with the agreement. We predict that enforcement through the courts will continue to be an essential part of the program.

The Department of Health and Human Services has focused on the above named measures as saving the federal government $56 million during each of the next three federal fiscal years.

Logic disputes that estimate. It would take one fiscal year for all states to enact the mandatory state legislation. A second year goes by before procedures are in place. By the third year savings would be realized, which should then begin to grow, rather than remain at the same specified level.

We qualify our support for federal income tax offsets for non-welfare cases unless there is a positive verification of delinquent support before the offset request is submitted to the Internal Revenue Service. Without this, there is no means of verification for support payments or past due support.

While we understand the limited nature of the medical support requirement, we still have serious questions about this proposal. It would be a nightmare to administer, and costs could far outweigh benefits. This would involve both the employer and the insurance company as well as the absent parent. If medical benefits become a part of the child support order, would we not be under the same obligation for enforcement? And what party would we seek for redress if support is paid but not medical benefits?

Filing liens against property and estates will require specialized staff to research the matter to determine if there is enough equity to justify the expense of seizure, sale, sheriff's costs, clerk of court fees, etc. Though probably effective in certain instances, its use may not be as widespread as some other techniques. We do need to be aggressive and innovative in pursuing different means of enforcement.

The child support clearing house concept is the most far reaching proposal of all. It seems to us that it will require the most painstaking attention to detail, take the longest to implement and be the most expensive. There should be an escape hatch for those who do not want or need IV-D services.

The sheer volume of adding practically every child support order or agreement in the country to the IV-D caseload almost boggles one's mind. As one small example, the IV-D collections in Jefferson Parish Juvenile Court was only 16 percent of the total amount collected there in 1982 for child support. Add the orders in 15 Jefferson District Courts, and you can better appreciate the volume. Even with an excellent automated system, a greatly expanded IV-D staff will be needed. The organizational aspects to convince every local court system to come under this mandate will present major challenges.

There are many variable factors which determine the effectiveness of the Child Support Enforcement Program within an individual state. Among these are its state laws, support enforcement history, organization, staffing, enforcement procedures and unemployment statistics. In carrying out new mandated provisions, we ask for caution and restraint rather than inflicting a super system designed in Washington. Each state has its unique circumstances, strengths and weaknesses and should be best equipped to make the necessary adjustments to provide effective implementation of new requirements.

Previously, the federal government sought to improve state performance by proposing funding changes. Perhaps this could be accomplished by taking a different approach: analysis of performance. While other states issued job descriptions and summary of duties, Louisiana established minimum caseload performance standards for different types of assignments. A staff member is expected to dispose of a given number of cases or collect from a given percentage of assigned cases during a month. Using such a system in connection with the number of referrals, one can not only track individual, office and state performance but can also determine staffing needs and allocation of resources.

There are production standards which could be set up in any state, regardless of the system. Louisiana will soom have reviewers for quality control independent of the State Enforcement Services Offices. They will establish acceptable error rates on the production standards. Other federal programs, such as IV-A, Medicaid and food stamps, have established minimally acceptable error rates. The Office of Child of Support Enforcement might want to look at federal regulations used for compliance audit purposes and compile error rates instead of looking at each state independently.

Some points in conclusion:

No one remedy can provide the total answer. Automation, streamlining and strengthening enforcement procedures are extremely important and badly needed. Still, if every proposed amendment passed Congress and was signed into law this week, child support enforcement would not become 100 percent effective by the end of 1983.

Both you in Congress who make the laws and the millions of women who need support for their children must recognize the time lag before benefits begin to accure. The initital impact will probably be minimal at first, and questions coming from heightened expectations will be tough to answer. Even after all the laws are in full operation, much will remain to be done.

The prime point that would make the difference is a national change in attitude to make paying child support the accepted and necessary thing to do rather than the reverse situation as it exists today. This will take an enormous education effort, particularly among those who owe child support.

State legislators and all those concerned with the judicial system need to be more involved in finding solutions for the problems of child support. State laws and their application help or hinder the national program. Variations in laws and interpretation also make a great difference in the handling of interstate cases. So even though national solutions are essential, implementation at the state and local level will continue to have a great deal to do with the effectiveness of the program.

We hope that the Administration and Congress will change its emphasis from recoupment of federal funds to service for all those who need child support. We think that such an investment will produce long lasting benefits for the taxpayer as well as for present and future generations of children.

Thank you for the opportunity to express these views.

SUMMARY OF TESTIMONY

The Jefferson Parish District Attorney, the Louisiana District Attorney's Association and the Louisiana Child Support Enforcement Association support a purpose statement which assures equal treatment to all those who need child support, provided that sufficient federal funds are allocated on a dependable, on-going basis to carry out the needed services.

Congress must make a basic public policy decision about the future direction of the support enforcement program. A shift to an effective national program for all will produce the most benefits for all concerned.

Changes in funding should include provisions to cover costs of paternity suits where necessary to go to court.

We endorse additional enforcement techniques which will help us to do a more effective job. In particular, we support wage withholding and state tax offsets.

Questions about quasijudicial or administrative process remain. A strong role of enforcement through the courts must be maintained.

The cleaning house concept will take a very long time to fully implement and will be exceedingly expensive. It is worthy of pursuit but will require many federal dollars.

Laws passed at the national level must be carried out by state and local officials. These are the people best equipped to make the necessary adjustments to provide effective execution of new requirements.

Analysis of performance through a federal quality control program could assist the Office of Child Support Enforcement in determining effectiveness of operation.

No one remedy will provide the total answer. A national change in attitude to make paying child support the accepted and necessary thing to do is basic to success.

Chairman FORD. Ms. Edwina Peters, you are recognized.

STATEMENT OF EDWINA PETERS, PRESIDENT, FAMILY SUPPORT COUNCIL OF THE CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION, AND ADMINISTRATOR, LOS ANGELES COUNTY BUREAU OF FAMILY SUPPORT

Ms. PETERS. Mr. Chairman and members of the committee, I, too, like the other people who came from all across the United States was on the plane yesterday when the administration's proposal was changed and I did send written testimony and I would appreciate changing that.

I am the president of the California Family Support Council and the administrator of the Bureau of Family Support for Los Angeles County and in that capacity I come in contact with a great many child support cases. We have 320,000 active child support cases in our jurisdiction, 50 percent of those cases are nonwelfare.

Permit me to be redundant and reitrate. There is a sorry state of affairs that exists in the United States. Parents are not living up to or shouldering their responsibility and that is supporting their children.

The figure that was quoted this morning out of the Census Bureau, 40 percent of the parents, only 40 percent of the parents are paying is an overstatement. That figure is for those cases where a child support obligation has been established. There are many numbers of children out there who do not have an order for their parents to pay support. They do not have an order establishing paternity.

A great portion of the responsibility of the child support program is to establish paternity and the support of obligation and nationwide when you talk about the 40 percent they are paying only slightly over 11 percent. Of the children who are on welfare have their parents paying support. And to that point I want to point out that Mrs. Kennelly's bill, H.R. 2374 contains a clear statement of the purpose of the child support program. This is very much needed.

Some would say that the current law states the purposes of the program, and I think that it clearly does state that we will provide this service for people who are receiving welfare assistance and for those who apply for the services who are not receiving welfare assistance.

However, administrations do change and bureaucrats in their enthusiasm interpret the written word differently as has the bureaucrat that we are dealing with at this time. They believe that the measure of a successful program is how much welfare are they collecting related to the cost of the total program and, of course, as you have heard from Mr. Abbott who has the most successful program, I beg to differ. I think that the program that may be most successful is the program that establishes the greatest number of paternities. The program that serves both segments of society, those parents who are supporting their children without benefit of welfare assistance, as well as those who are on welfare.

The language in Mrs. Kennelly's bill is a clear and concise statement which leaves no doubt about the purpose of the program. I don't think that subsequent administrations and bureaucrats can change that statement into something that they would like to see.

We must have offsets from the Federal tax refunds. Yes, I believe Mr. Campbell pointed out this morning in Connecticut, for example, that there were problems with notice. Did the absent parent get notice? There were problems with amounts that were submitted for arrears, and I will come back to that in a minute, and problems with new spouses.

You will recall, however, that we collected over $166 million from recalcitrant parents on welfare cases alone. And if we collect the same amount for children who are not receiving welfare assistance, the trouble that we incurred is well worth it.

I want to point out that the trouble with arrearages and whether or not the amount was accurate, I want to clarify that a little.

At the time that we have to submit welfare arrearages, and I don't know what it is for other States, but in California we have to identify the amount of a welfare arrearage by September 1 of the year prior to the intercept. When you do that, it is possible that an absent parent can reduce the amount of the arrearage before the intercept is made. Under regulation now, it is necessary that any amount that may have been intercepted, if the arrearage has been reduced by subsequent payment or collection or enforcement efforts, will have to be refunded to that person unless he is willing to apply it to his nonwelfare arrears.

Now you tell me how many of these good guys are going to be willing to apply his tax refund to his nonwelfare arrears? There are very few. And as I said before and I state it again, the trouble that we had with the tax intercept program is well worth it if children who are out there being supported by one parent have the benefit of that tax intercept program.

I must agree with Mrs. Roukema's bill, H.R. 3354 and her comments on the mandatory wage assignment. In California, we have had a wage assignment law since the Welfare Reform Act was cited under the Reagan administration in our State. We have had changes to the wage assignment law that now make it mandatory or at least not discretionary with the court if the person is in arrears in an amount equal to 2 months over a 24-month period, then it is not discretionary with the court that a wage assignment will be ordered.

However, there is a notice requirement. We have to serve the payor, the obligator, with notice that we intend to do that. I think that Mrs. Roukema's bill goes a long way to make a statement about how the Nation feels, how Congress feels, how the practitioners feel and the public at large feels about the problem of child support.

Someone said this morning about waiting for that 2-month period because you really shouldn't penalize the good guy who is making his payment. Let me tell you that the good guys are few and far between and anything that changes his circumstances can make him or render him no longer a good guy. And you give him a chance to make a decision about whether he will pay his child support when something has caused him to change his mind or attitude, he will make the choice that he will let that child support payment go.

The person who pays his child support and has every intention of paying his child support upfront has no problem at all. The child support payment will come out of his check just as his taxes and his social security payment and his car payment to the credit union. He suffers no disadvantage. He has a child support obligation which should be his first obligation right upfront. There is no disadvantage.

We are pleased to hear about the change made yesterday in the administration's funding proposal. Basic funding on which local governing bodies can make intelligent decisions on allocation of resources and appropriations for carrying out the program as necessary. If incentives are granted, they should be clear and credible. If they are not, local governing bodies cannot base the program or the appropriation on betting on the outcome, so to speak.

It should continue to be paid on the welfare cases because anytime we see that we are measured for performance by taking one section out of the program, we find that the rest suffer from that.

We should pay and receive incentives on the nonwelfare case because the local program earns nothing other than public support if they are working on cases where welfare is not being received and no incentives are received.

We should see that incentives are paid to the collecting jurisdiction on interstate cases. At the present time in welfare interstate cases there is an attempt at paying incentives and a sharing of that by the receiving jurisdiction and the collecting jurisdiction. It has been so cumbersome that many jurisdictions have never received incentives from that mechanism. If the incentive was paid at the jurisdictional level where the collection is made, then they are going to be willing and eager to establish and enforce that obligation and everyone benefits from that.

Incentives should be paid on establishing paternity. I do not at this time suggest a formula for that incentive or a percentage that should be paid, or if it should be off the first payment or what. But the benefits of establishing paternity are long range and go much further than merely the issue of support. This is an expensive activity and there has been considerable pressure on States to meet the cost effective measure used by the Office of Child Support Enforcement and that measure is what is the cost of your program related to welfare collections, not what is the measure of your success in establishing paternity and working on interstate cases where no incentives are paid and serving the nonwelfare client. We have not been given credit for our effectiveness in that area.

Our council has serious questions about the mandating of quasi-judicial or administrative procedure. There is no certainty that an administrative hearing officer can handle a greater volume of cases than a judge can. Funding for such an expensive revision is another cost for this program and it is an overlaying or another layer on the court system that already exists. In California, we had an administrative procedure to establish support obligations and paternity which was overturned by our court of appeals and our California Supreme Court. We have had problems with paternity establishment, stipulations taken to judgment without benefit of a court hearing and on contempt matters when a person is not personally served or the hearing has been made by a commissioner rather than a judge.

It would be foolhardy to think that we could establish a quasi-judicial hearing that would take the place of that if our courts of appeals and the Supreme Court would simply overturn it after a period of time and then those judgments would be in question or void.

One solution to that would be to mandate time limits much as they have in the criminal cases for child support matters.

California has before its legislature now proposals for nonwelfare tax intercept. We have had a tax intercept program in the welfare area for 4 years now. It is doing very well and each year, no matter what those people who felt that, well, next year the collections would be lower, it has increased year after year.

We have legislation now going through that body for mandatory wage assignment, for support schedules and the Governor has appointed or is now in the process of appointing a blue ribbon commission for the study of the child support program.

We do intend and have a strong desire to improve the child support program in every way we can in California and I think that we are working toward that goal.

As to the public trustee or central registry of child support orders and child support payments, we feel that the concept cannot be implemented until metropolitan accounting systems are prepared to handle the volume of payments. We do not disagree that it is a wonderful idea. We do feel that it will be costly. We do know, we have great experience in transition or implementation times and we would hope that any legislation or laws that would be passed would take that into consideration that there must be a period of time to load data and go through that transition period.

The statute is written in terms of the State having the depository and in California some of our jurisdictions are very large. I spoke to you about the size of my jurisdiction. In a reasonably populous State, it would seem appropriate, perhaps that the depository should be at a local level. And as it is in Michigan, by express judicial approval, some cases should be permitted to pay outside the system and it should be only so long as there is no default and it is mutually desirable.

We appreciate the recognition of Congress and the problems and the strong display of their interest in doing something which will serve to improve the quality of life for the millions of children living in single-parent families in the United States.

Thank you.

Chairman **Ford**. Thank you, Ms. Peters and thank you to each member of the panel for the testimony today.

[The prepared statement follows:]

STATEMENT OF EDWINA M. PETERS, PRESIDENT, ON BEHALF OF THE FAMILY SUPPORT COUNCIL OF THE CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION

SUMMARY

The District Attorney's Family Support Council supports the efforts of the sponsors to expand the child support program. But it offers in this testimony suggestions to improve specific proposals and several concepts not considered by the sponsors.

Specifically, testimony is being offered in support of proposals on central information clearinghouse, garnishment of tax refunds, medical reimbursement, property liens, state tax refunds garnishment for non-welfare cases, administrative procedures, wage assignments, blood tests, security bonds for support, obtaining default judgments, guide for support amounts, bankruptcy reforms, federal allotments, quarterly reporting of wage withholding information, and reporting past due support to credit agencies.

Importantly, testimony is included expressing opposition to a proposal aimed at restructuring funding for support enforcement programs.

Lastly, suggestions are submitted for further program improvements.

STATEMENT

Mr. Chairman and Members of the Committee:

I want to thank the Committee for this opportunity to present this testimony to you on behalf of the California District Attorney's Family Support Council. I am Edwina M. Peters, President of that organization. The purpose of this testimony is to support the provisions of the legislative proposals before you that expand and strengthen the procedures for enforcement of child support obligations. However, we must express opposition to the attach on the current funding mechanisms. Further we offer suggestions to improve and expand on the concepts being considered here.

Background

The problem of child support enforcement and public welfare expenditures has been recognized as a national concern by Congress since 1967, and by the states long before that. Early attempts at the federal level to encourage support enforcement were examined by the General Accounting Office (G.A.O.) in 1973, and pronounced a failure because of weak leadership. This was caused in part by lack of fiscal incentive at the local level.

In 1975, Title IV-D was passed, providing 75 percent federal financial participation and 15 percent of support collections that repaid welfare costs being rebated to local government. Support enforcement began to pay dividends to the taxpayer. It cost $450,000,000 in 1980 to do this work, but under Title IV-D, $603,000,000 in A.F.D.C.-related support was collected, and an additional $900,000,000 was collected to keep families off welfare. Even without the cost avoidance factor, the taxpayer received a dividend of $150,000,000. Further, the rate of A.F.D.C. growth decreased.

In California, welfare dependence is eliminated by support enforcement in approximately fifty percent of the state's non-welfare cases. The taxpayer benefits by reduced welfare expenditures.

H.H.S. proposal for funding of the child support enforcement program

The proposal put forth by the Department of Health and Human Services (H.H.S.) requires that after IV-D program costs are met, the excess, if any, of collections over cost be split with the federal government based on the A.F.D.C. matching rate. In states that do not collect enough to equal total cost, the federal government would pay part of the difference based on the A.F.D.C. matching rate.

In jurisdictions that do not collect enough on A.F.D.C. cases to cover costs, the promise of a partial federal subsidy will make no difference. The program will be cut back to equal A.F.D.C. collections. While this group of states includes New York, at least some of the jurisdictions in question are smaller and poorer. Arkansas, West Virginia, Louisiana, Kentucky, and Tennessee all fall within this group. Others, such as Nevada, have been so effective in reducing the welfare caseload that they have very few cases left on which to collect.

The following negative results will occur under Office of the Child Support Enforcement's (OCSE) proposal:

(1) Reduction in paternity establishment. If this effort is reduced, future support rights of a whole generation will be lost. A significant factor which has contributed to the increased growth of the welfare program (AFDC) is the number of children born out-of-wedlock. According to statistics maintained by the National Health Center in 1979, there were an estimated 597,800 out-of-wedlock babies born in America. This was approximately 17 percent of all births, but is even more striking when compared to statistics of a decade ago. In 1970, unwed mothers had 399,000 babies, or 10.7 percent of all births for that year. OCSE reports that the large increase in the non-marital birth rate has brought a corresponding increase in the cost of AFDC funding. The "inherent right" of the child starts with paternity establishment. Legally identifying the father establishes potential Social Security, veteran's assistance benefits, insurance benefits, and potential inheritance rights. It is the first step in shifting the burden of support from a government program back to both parents.

(2) Reduction in interstate enforcement. Since the enforcement agency's job will depend solely on skimming the cream off local A.F.D.C. collections, substantial fees will have to be expected or cases will be put on the back burner. This may create individual state havens for parents unwilling to support their children.

(3) Effort on non-welfare cases will be reduced, notwithstanding H.H.S.'s efforts to impose a fee nationwide. Relagating such cases to a low priority invites reapplication to IV-A for welfare benefits, since then the child support will be enforced without a fee. This savings in IV-A Grant costs will be lost. The cost of administering a non-welfare child support case under Title IV-D is infinitely cheaper than a title IV-A (A.F.D.C./welfare) case In 1980, in California, a non-welfare IV-D case in California cost $115.15 per year to administer, based on H.H.S. statistics. The average A.F.D.C. (IV-A) case in California cost $480 per year to administer. In terms of administrative costs, it is much cheaper to keep a family off A.F.D.C. If only 47 percent of the non-welfare child support cases in California went on A.F.D.C. for only one month, the IV-A cost would exceed $35,000,000.

(4) The dollar saved by the states, even in the short run, will quite probably never find its way out of the state. The revenue Office of Management and Budget (O.M.B.) projects is a chimera. This is because the H.H.S. proposal will induce the states to keep and spend all the collections.

(5) It is axiomatic that in government, expenditures rise to equal any fixed pool of cash available. But in the present funding system, no such threat exists since there is no fixed pool of cash. Each budgetary increment now requires a new and separate appropriation of local or state funds equal to 30 percent of the item. Thus, each budgetary item must stand on its own merits. At present, the program managers take a certain level of pride in holding down costs. Under the H.H.S. proposal, if cash collected on A.F.D.C. cases is not fully used, the local jurisdiction will have lost available funds. This will encourage overspending.

(6) The proposed "performance incentives" cannot be computed or relied upon until after the fiscal year. Thus, there will be no incentive to the states to keep program staff active. Incentives will simply be unbudgeted revenue. Further, H.H.S. uses economically unsound and unproductive ratios as benchmarks. Instead of the criteria of comparative rate of return on investment (comparing the rate of return with the market rate of interest), they use the spurious criteria of cost versus collection. The protection in the present program from excessive state costs is removed and no alternative less costly alternative is available. Therefore, federal costs will increase. To try to prevent the expenditure of the taxpayers' $150,000,000 on irrelevant items, the federal government will have to put in the field an army of inspectors general. The inevitable lawsuits would follow, with government lawyers on both sides arguing whether any individual appropriation could be reasonably related to

paternity proof or child support enforcement. A budget approval system would likewise be expensive and burdensome to establish and maintain.

(7) Lack of credible and workable funding mechanisms will weaken a vigorous support enforcement program. Generally, failure to enforce support while taxing people to pay welfare to the unsupported family encourages procreation without regard to responsibility on the part of those who are unwilling to support their issue.

(8) The propriety of charging a fee in non-welfare support cases to enforce criminal and quasi-criminal statutes is open to question in itself. In urban areas, the fee has inhibited cooperation in the IV-D program for the low-income, single parent and often proved more costly to collect than it was worth. Many urban areas observed that the clinic-like atmosphere of IV-D offices screened out middle and high-income cases and that for low income families, the offer of this service avoided welfare dependence. In no case has it been determined that a fee produces significant revenue.

Public trustee or central registry

This proposal would pattern the nation's child support system after the Michigan program, by requiring that all support be paid through a public agency. The Michigan system continues to set the pace nationally in collections on welfare cases, showing the efficiency of a system that keeps track of every support case from the time it is filed. The concept minimizes duplication of effort and results in cost savings as a result of a constant monitoring of the support case without regard to default. Since non-support is a crime, it also functions as a crime prevention unit. Such a concept will be independently investigated in California this year with an increasing number of varied interest groups in support thereof. The foregoing notwithstanding, the proposal for a central registry does have problems:

(1) First, the concept cannot be implemented until metropolitan accounting systems are prepared to handle the volume of payments. There must be an adequate implementation time period.

(2) The statute is written in terms of the "state" having the depository. In any reasonably populous state, the depository should be at the local level.

(3) By express judical approval, some cases should be permitted to pay outside of the system. This is permitted in Michigan only so long as there was no default and it is mutually desired.

Garnishment of tax refunds for nonwelfare cases

The District Attorney's Family Support Council enthusiastically supports this concept. However, the statute should be reviewed to make clear that the monies are being seized under a garnishment concept and not a set-off of mutual debts. It should be clearly understood that the right the public has to set-off takes priority over private rights. Sec. 6305(b) of the Internal Revenue Code, consigning private litigation to the appropriate state court, should be incorporated.

Medical reimbursement

So long as the IV-D funding structure is kept intact, this should be a manageable program requirement. However, there may have to be a separate structure organized to litigate claims against the insurer. The statute does not define the coverage of the medical insurance (i.e., amount of deductible, if any, exceptions to medical needs provided for, etc.).

Property liens

The Family Support Council supports this proposal. This statutory requirement is manageable since every state has some vehicle for recording a judgment lien. However, the language may be improved by clarifying whether the lien applies to property acquired after recording or whether continuous recording is necessary and by defining the terms "property" and "estate".

State tax refund garnishment for nonwelfare cases

This proposal is a logical extension of the set-off concept and is supported by this council. However, it must be conceptually distinguished from set-off in the statute. Claims of lack of due process have been raised in federal court in the existing program. Federal courts do not seem to be well versed on state divorce procedure and are publishing rulings that denigrate the process. Because of this, some states may be reluctant to extend this program until these federal questions are resolved.

Administrative procedures

The California Family Support Council seriously questions imposing this concept as a federal mandate. While some small states have found administrative courts helpful, other states function in a timely manner through their judiciary. To create a separate level of judiciary at the state level that can inpose permanent obligations on individuals raises the potential of a whole new series of due process problems. There is no certainty that administrative hearing officers will be an improvement. A non-judicial procedure would be useless for paternity and contempt proceedings.

Funding for such an extensive revision of the state's judicial system is another problem. As an alternative, it is suggested that state courts be mandated to grant hearings on support matters within limited time frames. The state's obligation to comply with time limitation could be incorporated into the grant in aid program surrounding Title IV-A. Thus, the time problems that resulted in the administrative process suggestion could be met with this less expensive alternative.

Wage assignments—mandatory and voluntary

The California Family Support Council supports this concept.

Use of scientific tests to determine paternity

The decision as to which genetic tests are scientifically acceptable has until now rested with the courts. This bill would vest this authority with the Secretary of H.H.S. It is submitted that this is one area which judicial discretion should not be invaded to the degree this statute suggests.

Security bond for support

This concept is already found in the revised Uniform Reciprocal Enforcement of Support Act (URESA) (adopted nationwide), and in the Uniform Desertion and Non Support Act (adopted in 30 states.). California includes this in its civil support laws. Conceptually, it is a proper part of a support program and is supported by this council.

An ability to obtain a default judgment

The procedure is available implicitly in any civil proceeding and, under certain circumstances, in some criminal procedures. Due process considerations arise if the refusal to cooperate was based on a correctly formed legal opinion that the court in which the action was initiated did not have jurisdiction. Adding, after the words "carried out", the phrase "in a court or administrative tribunal of competent jurisdiction" should cure the defect.

An objective guide on a state-by-state basis for support orders

This provision will have difficulty in being accepted by the states since it intrudes directly into judicial discretion at the local level. If it were rewritten to make state receipt of IV-A funds conditional on using a scale of support orders that would assure the federal government of significant recoupment of those funds, it should withstand judicial scrutiny.

Bankruptcy reform

This council endorses the bankruptcy reform measures proposed by current legislation and suggests that Chapter XIII be reviewed for reform. Recoupment of delinquent support has been thwarted under Chapter XIII plans by continued plan renewal and prevention of tax interception by some bankruptcy courts.

Federal allotment

While in California this appears unnecessary because of powerful garnishment laws, this allotment will simplify support collection where statutes are less progressive. It is, therefore, endorsed.

Quarterly system of individual wage withholding

This council supports this proposal. It will improve the potential for location of absent parents and determining their ability to pay support.

Reporting of past due support to credit agencies

A delinquency in paying on a support order is no less a bad debt than a failure to pay on consumer credit. Privacy statutes ought to be reviewed to permit a free flow of this credit information. This would encourage individuals whose business depends on credit, notable the self-employed small businessman, to give greater priority to his (or her) support order. The council supports this concept.

Suggestions

Below is a listing of suggestions developed by members of the California Family Support Council for improvement of program techniques.

(1) Reevaluate and reinforce the tax intercept program, whereby a tax refund is set off against past-due child support owed on a welfare case. A realistic assessment of expected recovery is $250,000,000; $100,000,000 of which would end up in the federal treasury. Thus, the federal shortfall would be made up by a system already in place. If the present IV-D funding system stays in place, it can be expected that more state governments will participate in this program. Also, once a set-off procedure is established, the money continues to roll in during succeeding years without further administrative costs. Therefore, for the next several years, this collection tool alone should make up the difference between federal expenditures and costs.

(2) Federal court registration of orders. 42 USC 660 authorizes use of the federal court to determine support controversies limited to cases where there is a court order and the case has been rejected by the state of residence of the obligated parent. The approval process is cumbersome and the statute should be revised to permit registration with the federal court without prior H.H.S. approval. Also, it is suggested that: (1) nationwide garnishment should issue from the district court on the registered order; (2) the district court be authorized to refer to state court substantive issues of family law; (3) restrict revenue to the district where the order was entered; and (4) provide this remedy to private counsel. By using the federal court, due process rights would be protected and the scope of enforcement enhanced; (5) as to those cases where no order had been entered some consideration ought to be given to creating Article I courts, comparable to Bankruptcy Courts. These courts could be limited by the review now required under 42 USC 660 without the "prior order" requirement.

(3) Deductibility of child support. As an incentive to the obligated parent, child support could be treated similarly to spousal support for tax purposes. Where collections repay aid benefits, there should be no tax consequences by statute. The right to this deduction could be conditional on a documented lack of delinquency.

(4) Encouragement of family counseling through unions and employers. Family problems do impact job performance and employability. The Family Resource Center, providing counseling and emotional support for the family, is the military answer. It is suggested this program be carefully studied and that federal effort encourage its duplication by employers and labor unions which deal with a significant segment of the population. By encouraging family stability and responsibility, support collection is made easier.

(5) Any changes to the existing incentives structure should be evaluated for workability. The council concurs there is always a desire for improved program performance. Incentives paid on improved performance are a viable method for effectuating this result. Preferred options for incentives are: (a) Continue to pay an incentive on collections made on welfare cases; (b) pay incentives on non-welfare collections. This encourages obtaining support orders in an amount sufficient to avoid welfare dependency; (c) pay incentives to the collecting agency on both welfare and non-welfare interstate cases; (d) pay incentives on establishment of paternity.

Conclusion

According to Census Department figures, single-parent families receiving child support increased during the period 1975 to 1978 (the last year for which figures are available) from 1,200,000 to 2,200,000. Welfare growth has stopped, or appreciably slowed, and the taxpayer is now receiving a dividend of $150,000,000.

Governor Reagan, in March 1971, stated to the California Legislature:

"Too many families are on welfare because of the failure of parents, usually the absent father, to contribute to the support of their children. Where a parent is capable of supporting his children but refuses to do so, the fairest solution is to legally enforce his obligation rather than force the taxpayer to make up for the parent's unwillingness to provide adequately for his own offspring."

The vast majority of states and counties have responded to this call to action. The result has been the only form of welfare reform in the last forty years that has worked. To now permit O.M.B. and H.H.S. to undercut this effort by their ill-conceived funding scheme neither serves the President nor the public.

Child support enforcement has advanced in this country in just seven years, but the social problems that produced Title IV-D are also growing. The authors of the child support enforcement bills have made an important contribution to the dialogue over these social problems by recognizing the key to their resolution is expanding the protection for all single parent families. In so doing, they have given substance to the statement of President Reagan earlier this year:

"We intend to strengthen enforcement of child support laws to ensure that single parents, most of whom are women, do not suffer unfair financial hardship."

Such has also been the goal of the California District Attorney's Family Support Council and the purpose of my testimony today. It is hoped that this testimony has furthered that goal.

On behalf of the Family Support Council, I thank the Chairman and the Committee for permitting me to present these views.

Chairman **Ford**. I want to go back—and you mentioned it, Ms. Peters, and others mentioned that there are the absent parents in this country who are meeting their obligations and obligations at what rate, and in certain States it varies.

In California, is there any such help that can be given to those who would like to submit their child support payments but at the same time were never notified of a child that was born out of wedlock? I am referring to the case in California with LeVar Burton who has offered and is trying to get the courts to let him pay $600 per month in child support after he learned that he had fathered a child.

Ms. **Peters**. I suppose in the *LeVar Burton* case, that case is from my jurisdiction and I want to mention that Mr. Burton would have us all believe that he is a perfect example of a father willing to support his child and so on. I want you to know that we filed that paternity lawsuit over 3 years ago and we have been dealing and negotiating with Mr. Burton and his attorneys for that period of time. We obtained a stipulation for support in the amount of $600 and for the payment of a health insurance plan and then and only then did Mr. Burton see fit to file a lawsuit to establish paternity and pay support and obtain visitation rights.

Chairman **Ford**. Maybe we ought to strike that from the record then.

Mr. **Thomas**. Maybe he is a model case.

Ms. **Peters**. What I am saying is that that is typical. Once you finally come to the realization——

Chairman **Ford**. Well, I was only going on what we had read in the media that he was unaware of the fact that he had fathered the child.

Ms. **Peters**. Well, he was served with a notice that he was being sued over 3 years ago.

Chairman **Ford**. Well, he has publicly indicated that he is willing to pay.

Ms. **Peters**. We have obtained a stipulation and judgment in that case and he should be willing. He had better pay.

Chairman **Ford**. Is the dollar amount set by the court or did he set out the dollar amount per month? Did the courts make that decision?

Ms. **Peters**. It is a judgment.

Chairman **Ford**. It is a judgment?

Ms. **Peters**. Yes.

Chairman **Ford**. Mrs. Kennelly.

The staff better get me a better case than that.

Mr. **Thomas**. If that is the high water mark, we are really in trouble.

Mrs. **Kennelly**. You began by reading a resolution, Your Honor. Did I miss clearinghouses in there or is that not in there on purpose or how do you feel about a clearinghouse?

Judge **Galvin**. The judges felt very strongly about the present system of many of us like the State of Michigan, the State of Ohio have an agency which is either an arm of the court or controlled by the court in some fashion, in the particular case of a place to collect support, keep records of it and disburse it. In many cases there is already and have been for years statutes to do that and I think that is one of the reasons Michigan has done so well is they have a longstanding tradition of collection and recordkeeping in child support cases.

We continue as the judges to control that function because it becomes very difficult if someone says their supporter hasn't been paid to agree on arrears. People just don't keep records. We have found that over and over again. Just to give you an example, one day an attorney walked in alleging defense that this man had paid all of his support and brought me a garbage bag one-third filled with cancelled checks and it became my time to spend my time at home because there is no time anywhere else to go through and make sure the check was paid to the person it was supposed to be paid; that it wasn't paid for Christmas gifts, birthday gifts, general gifts, utility gifts and so forth and it was in fact the order.

We felt that all support payments should go to one place, preferably local or if the judges in a smaller State wanted to refer it to one clearinghouse in that State, not to deal with it, that would be fine, too, but we felt strongly that it should be through the court.

Mrs. **Kennelly**. Are you saying that the judiciary could be the clearinghouse?

Judge **Galvin**. Yes.

Mrs. **Kennelly**. Ms. Hunter, you were negative in some of your comments, particularly from the 70 to 60. How about both bills, Mr. Campbell's bill and mine and leave it at 70?

Ms. **Hunter**. Seventy would be just fine if we can't get 75 which is what we really would like to have.

Mrs. **Kennelly**. But you can work with 70?

Ms. **Hunter**. Yes. I think we are going to be able to work with 70. You see, what has been happening in Louisiana, and I am sure this is not unique at all, is that the district attorneys or the local governments are not participating in the money that the State gets over and above what is termed their savings.

Mrs. **Kennelly**. But you can live with 70?

Ms. **Hunter**. We can live with it but not very comfortably.

Mrs. **Kennelly**. Just one more question, Judge. I watched your face during some of the other testimony and I can see you have had a lot of experience in this area. I would like to ask you that question. Clearinghouses remain with the judiciary. Is there anything else that you would like to highlight as the No. 1 thing we should be looking at having looked at these proposals?

Judge **Galvin**. The only other comment I think I would make is a major issue with us is when the wage withholding goes on at the time of the initial order and for the sake of discussion, let's say the initial order is the time of the final hearing and you know the case isn't going to be dismissed and so forth because the parties are going to reconcile versus after a default. And quite honestly as strongly enforcement minded as I am until about 3 months ago I would not have favored anything but waiting until a default had occurred even though I know the number of tremendous tax dollars that go into it.

We became fully computerized in October so I asked the computer operator to run all the cases that were finalized between October, November and December, and December is notoriously a high paying month so we were singling out high pay times. And we took one-third of all the caseloads and we waited 3 months so that we knew we had at least a 3-month period of time of payment and I wanted to see what the rate of payment was in a strong enforcement oriented situation where all the staff was encouraging support and there was the ability to voluntarily enter into it and the statistics absolutely shocked me.

Nineteen percent of the total caseloads were in total compliance or ahead for the first 3 months of the year. Of the total caseload, 14 percent were already on a voluntary wage withholding on their own. So that meant only 5 percent of the caseload was paying their support order with the ability to write the check and that turned me around in my thinking.

Chairman FORD. Mr. Thomas.

Mr. THOMAS. And that is a mixture of both AFDC and non-AFDC, the total caseload?

Judge GALVIN. Yes.

Mr. THOMAS. So what you are saying is after this experience with the review and the benefit of the computer that you are now a much stronger supporter. Are you an advocate of or are you considering looking at wage withholding at the time?

Judge GALVIN. First off, keep in mind judges are like police officers. We follow the law. The law in the State of Ohio does not provide for the order until there is a default. I believe that it should initiate it at the final order at that point in time.

Mr. THOMAS. Would you advocate it at the final order? You would not put much stock in the check-in-hand relationship that was described by Mr. Abbott from Utah in terms of handing the check to the spouse.

Judge GALVIN. It usually happens on Sunday night or Friday night because he thinks his spouse isn't going to let him see the children unless the support is paid. Yes, I support the clearinghouse.

Mr. THOMAS. Ms. Hunter, what was the 3.8 percent? Collections?

Ms. HUNTER. No. What I said was we were trying to decide how Mr. Campbell's bill would affect on the incentives.

Mr. THOMAS. You stated 3.8 percent in terms of collection?

Ms. HUNTER. No. We had 3.8 percent of our cases in our office that we checked on that had been paying in full for the past 12 months.

Mr. THOMAS. You don't have wage withholding?

Ms. HUNTER. Yes, we do have wage withholding. That was passed in Louisiana a year ago and we have started that and contrary to what the judge said, we have had some people who have been laid off because of it. But we are finding it a very satisfactory system.

Mr. THOMAS. The district attorney's department in your State probably has higher priorities than child support services. I have heard some people say welfare departments have higher priorities than children's services. Maybe sanitation departments have higher priorities. I think maybe we ought to really begin focusing on the parent's and children's roles. If we don't have an agency or department that places it at a relatively high priority maybe we ought to create another one. That is coming from a conservative Republican in terms of another layer of administration.

Ms. HUNTER. We are all the converts here. All we need to do is figure out how to get all these other people to church.

Mr. THOMAS. Ms. Peters, very quickly, what percentage do you have of volunteer payments?

Ms. PETERS. Volunteer? I don't think there are any volunteer payments.

Chairman FORD. You mentioned earlier that there were those who write their checks every——

Ms. PETERS. If you are saying without paying thorugh a wage assignment or writs or whatever——

Mr. THOMAS. Just volunteer?

Ms. PETERS. We have a very low percentage of people paying at the total.

Mr. THOMAS. As the gentleman that the chairman thought he had in hand, how many of them are there who really operate that way?

Ms. PETERS. I would say that we probably take in the neighborhood of about 1,000 stipulations or agreements during a month.

Mr. THOMAS. Again this is coming from a Republican. I guess you can hope that people will change. I think if anybody looked at the records and had them computerized for some period of time, the direction is away from rather than toward compliance. I really think that this is not only a useful role for Government but an absolutely necessary one. You indicated the items that you check off on your checkbook and you have all of these necessary items. I can't think of anything more necessary in terms of responsibility than honoring this obligation.

Chairman FORD. You keep mentioning that you are a Republican, Mr. Thomas. Are you trying to raise the question of whether Republicans pay theirs or not?

Mr. THOMAS. No. I think this is sometimes viewed as a partisan issue because it gets all wrapped up with welfare and other items. I really don't believe it is partisan and it ought not to be. And I think the position of the administration in terms of the fact that everybody wrote their testimony on a different bill would indicate that there has been some pressure to try to move in a convergence pattern to come up with a program and a bill we can work on in a bipartisan manner.

Chairman FORD. Yes, Judge?

Judge GALVIN. I just thought of one other thing that the judges as a whole thought was extremely important to carry to you. They thought that all of the proposals of 2 months were far too long. First off, we would ask this: Most computers work in terms of weeks. We would ask that you consider weeks because we can't work in terms of days. That is minimal.

Second, you have to understand that most of us make our court orders, I think, weekly. At least in Ohio we do. You are automatically giving a legislative veto to a court order. Every order that is issued after the effective date of the statute you are really giving them a grace period of whatever this is because no judge, I don't think, in the Nation is going to at that point say, "Well, if this is what the Federal Government has said, we are giving you an extra grace period." If you do it—the judges felt very strongly that 4 weeks, and I would also say in the State of Ohio we did a survey, and for 4 weeks the State of Ohio was 90 percent overwhelmingly in favor of that period of time. Keep in mind in Ohio it is only 10 days.

Ms. PETERS. Could I say one more thing?

Chairman FORD. Yes.

Ms. PETERS. You had some testimony earlier about the unemployment intercept program and so on and you expressed some concern about whether or not we had been taking money from a person who was living at a minimum level, you might say. I wanted to point out that if a single mother was earning $110 every week, she would not be eligible for AFDC because her earnings would be too great and yet that same mother would have to support the children no matter how many there were on that $110 a week if she didn't get any money.

Chairman FORD. I understand that.

Ms. PETERS. So the intercept program for unemployment benefits is not the total unemployment check but as a percentage of the unemployment check and for current support.

Chairman FORD. I think we acted on some legislation in the last Congress to make that possible. I was concerned about States being relieved of their public assistance and welfare responsibilities to the families like this to go to one side of the family and draw that 15 percent of the unemployment compensation when we know that even with those funds and drawing them for a year that person that lived below the poverty level just to save the States an additional $15 or $20 a month. That is the point I was trying to make.

We passed the legislation to make that possible. You know, you win some and you lose some. I lost here today.

We thank you very much, Ms. Peters and all three of you for testifying before the committee.

We will call the next panel. The Organization for the Enforcement of Child Support, Metro and Northern Virginia Chapters, Ms. Martha Mallardi, judicial chair; and we have FOCUS, Long Island, N.Y., Ms. Fran Mattera, president and founder; Parents Without Partners, Inc., Ms. Connie Mallett, president; KINDER [Kids in Need Deserve Equal Rights], Ms. Marge Johnston, president, Detroit Chapter; and the Children's Foundation, Ms. Worth Cooley, project director.

Before you start, I have 4 minutes to vote on the House floor. I was waiting for another member to get back. Let me say that we are going to stand in recess for 2 minutes. That will give Mrs. Kennelly time to get back. It is about 3 minutes before the vote is over. If the witnesses will keep your seats at the witness table, Mrs. Kennelly will be walking in any minute now, and we will resume the session.

[Brief recess.]

Mrs. KENNELLY. The first witness?

STATEMENT OF MARTHA MALLARDI, JUDICIAL CHAIR, ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT, METRO AND NORTHERN VIRGINIA CHAPTERS

Ms. **Mallardi**. Good afternoon, Mrs. Kennelly. My name is Martha Baker Mallardi and I am representing the Metro Chapter of the Organization for the Enforcement of Child Support and my own non-AFDC State-represented child support case in Prince Georges County, Md.

My two children, Gina, age 14, and Terra, age 6, are presently being deprived of basic necessities due to the shortcomings and inefficiencies of the present system of child support enforcement. I am pleased to see the combined diversity of credentials and I feel that my firsthand experience with the child support enforcement system will add an otherwise missing element to the expertise.

Many testimonies of today are the result of extensive studies prepared by competent statisticians and other professionals. Their statistics and facts have proven to be invaluable in substantiating the magnitude of the child support enforcement problem. Without these studies we could not have captured the Nation's attention but our orgnization is attempting to insure this continued interest by introducing the personal side to the otherwise impersonal studies.

I would like to do a case summary of my own happenings in the system.

Upon my petitioning the noncustodian parent herewith referred to as defendant into the Montgomery County courts, the hearing master would only register my California decree which is a child support divorce order and set arrearages of nearly 2 years. At the time I was employed and represented by attorneys who requested the master to make the defendant pay some moneys for child support, fees incurred for petitioning, a wage assignment lien, a contempt finding or a modification for the monthly child support amount which was then $105 for both children, since the master knew of the defendant's steady employment.

A smack on the hand was rendered and the case file was lost. It was never signed by the judge. My persistence found a clerk 3 months later who then had it signed but told me I must repetition the defendant for any enforcement of this registered Montgomery County order.

In 1980 and 1981, I worked three jobs to maintain my household. This is addressing Mr. Ford's question about the hardship case. If I worked the three jobs to sustain the family, I think that he could shovel snow or cut grass or do house work as I did to supplement.

After this, ill health found me and I applied to social services by filing their forms and meeting their interviews only to be told by a caseworker I was ineligible for services other than food stamps based on the scales set for eligibility. Child support amounts were tabulated into my income for eligibility although no moneys were being paid and child support enforcement forms were never processed.

At this point I wrote to the Governor asking that he review the criteria for eligibility for services and the happenings in the child support hearings in Montgomery County. His timely response referred me back to the same agency that then had me again fill out the same forms as I had done in my initial outreach for services but this red light referral found me eligible this time for emergency funds and State's attorney representation.

I wrote a letter to the social services department supervisor who admitted my prior application had not been properly handled but I could spend no more food from the table to appeal this issue, as he suggested. My case has since been handled by the State's attorney's office in Upper Marlboro, Md., who has represented me in seven hearings since the inception of the child support order into Prince Georges County. The first of the Prince Georges County hearings was held in July 1982 ending with the registration of the child support order, a pendente lite order of $200 a month to be paid toward child support and the rescheduling of the case again in 3 weeks. No child support moneys were paid.

The assessed arrearages of the Montgomery County order were totally unaddressed and the defendant was only scorned by the master for his behavior. At the request of the master, this case was only to be heard by him.

At the second hearing in the Prince Georges County courts, the defendant appeared again, proper person although the master had suggested that he obtain representation. The defendant told the courts that he was unemployed with $150 weekly coming in from unemployment compensation and that he had only made one $50 payment on the pendente lite order. The master then set a permanent monthly amount of child support of $300, plus $50 toward the arrears.

The master told the defendant to obtain representation and continued the case until September. Again no child support moneys were paid. My State's attorney's request for a wage lien or unemployment garnishment and any other relief was denied.

The September hearing was rescheduled for October where the defendant again appeared proper person and was found in contempt for having only made one $50 payment on the child support order. He was sentenced to 179 days in the House of Corrections with a $2,000 bond and a purge figure of $1,000 for child support. The defendant bonded for $200 2 hours later and no moneys were paid for child support and no work release was imposed.

At our fourth hearing in November, to show cause why the defendant shouldn't commence to serve the contempt order, the defendant's public defender entered a plea of indigency and their request for another continuance was acknowledged. My State's attorney argued against the continuance because the defendant did not comply with child support payments nor did he file exceptions. The State's attorney's pleas were ignored as was my request for an unemployment lien. The defendant did not meet Maryland criteria for public defense which was an income of $125 weekly yet he had public defense.

No child support relief was rendered in my verbal appeal to Judge MacCullum who signed the order. His statement was that "the man is literate and he doesn't belong in the House of Corrections" which meant no incarceration with work release.

Our fifth hearing was held in January where arrearages were assessed at over $2,000. The defendant paid at that time $765 on the

$1,000 purge figure. He promised the master he would comply if the case was continued. Sentencing was not imposed and the continuance was granted until May 16. Again, no implementing of a wage lien or unemployment lien or tax interception although the support collections unit, which is our clearinghouse arm for the courts and the State's attorney's office, met administrative process requirements.

"We have no budget for non-AFDC tax interception cases," said Human Resources in Baltimore.

The defendant petitioned me then to court for modification of the permanent child support amounts in April. There I submitted personal financial statements, Federal scales and estimates of ability for both of us to pay child support based on his minimum wage and my income. This hearing was the only one held by a different master who acknowledged all and denied the modification.

At our seventh Prince Georges County hearing, the defendant paid $1,620 and came into compliance with child support. A pattern was established at that time to pay only upon the threat of incarceration. Imposition of a contempt sentence was again continued and the defendant promised future compliance.

My State's attorney's plea for the wage lien was denied and the case was continued until August 1.

Without dwelling on any one problem area in particular, our organization has addressed the majority of issues that are now affecting the custodial parent in their plight for the collection of child support moneys and have suggested remedies which I have submitted to you in written form. Although I have climbed the mountain, I have unfortunately returned many times to my children as the emptyhanded veteran in our fight for their rights.

In most broken homes where the noncustodian parent evades the responsibility of the child's welfare, the family unit struggles and conflicts are compounded further by the inequities of this current system. The child's rights are the least focused upon in the considerations the judicators render to the evader. When the decisions or recommendations are final in the first case or after seven as in mine, where have these children's needs been placed and are they actually the issue being acted upon?

Child support evaders have given up their rights for protection by law because they are breaking it. Yet, in many cases, the evaders have acknowledged rights over the children's. The outcome many times gives protection of the constitutional rights of the evader and at the same time wanes in viewing the children's constitutional rights.

I have cooperated with the sherriff's department in Upper Marlboro and personally served the defendant for the second time. There have been non-AFDC budgeting reasons why they can't cross county or State lines so I have cooperated in this way. This time I have petitioned him for a wage lien pursuant to an article 16–5(b) and this will be heard August 1.

In the courts I hope that it will not always take a red light to clarify that the issue is child support enforcement. The child cannot earn a living and the parent must and can. There is presently good legislation and laws but there is no monitoring system at the judicial level on the implementation of them or the decisions rendered by these judicators.

At the agency level I hope that future non-AFDC clients seeking child support will be rendered the same avenues of aid that are available for the AFDC cases. Better funding for the non-AFDC cases could be a revenue as in State moneys sought after in the welfare cases. The non-AFDC, as in my case, end up sucklings at some point and get an emergency check or food stamps while the nonpaying parent also feeds from the unemployment line.

I cannot express succinctly the blood and guts and food from our table spent in my personal plight for child support enforcement at all levels. As in my alternative to the court system, I went to Steny Hoyer whose office was able to have the Maryland procedure of the Federal and State tax interception investigated only to find improper utilization of laws and budget barriers for the non-AFDC cases. There is a need for penalties and merits to be federally imposed to States that do and do not comply with child support enforcement laws for the non-AFDC client as well as the AFDC cases for the nongovernment employee as well as the Government employee.

I would like to, upon your request, comment on any of the issues that are here today if you would like to question what my remedies or our organization's remedies would be at any point.

[Ms. Mallardi submitted the following:]

TESTIMONY ON H.R. 2374, PREPARED BY RUTH E. MURPHY, COORDINATOR OF THE METRO AND NORTHERN VIRGINIA CHAPTER OF THE ORGANIZATION OF THE ENFORCEMENT OF CHILD SUPPORT

BACKGROUND

There is a new social disease that is attacking the mainstream of our social structure. An epidemic of non-support which previously was associated primarily with Welfare recipients has now filtered into both the middle and upper classes. The non-supporting parent shows no discrimination. The recent increases in desertions, separations, divorces, and children born out of wedlock, coupled with lack-luster enforcement of existing child support orders, have created a national disgrace. Confronted with overcrowded dockets, Judges continue to exhibit a great reluctance to strictly enforce the existing laws. Instead, child support cases are often subjected to broad and inconsistent interpretation, making a mockery of our judicial system. The most pathetic aspect of this entire tragedy is that parents are unnecessarily subjecting their own children to substandard levels of living.

All states have statutes establishing a child's right to financial support from both parents. As an example of the magnitude of the problem, there are over 200,000 active child support cases in the State of Virginia. Assuming an average of 2 children per case, there are approximately 400,000 children in Virginia, alone, who are needlessly being deprived of the basic necessities of life.

Both the non-paying parents, as well as the Legistative and judicial branches, are at fault in this miscarriage of justice. Jurisdictional disputes, non-reciprocation, due-process abuses, and a host of other technicalities reinforce the prevailing attitude of non-paying parents that our society is not serious about the problem or its solution.

Due to the abundance of local, state, and federal agencies—each maintaining its own figures—the total extent of the problem cannot be accurately ascertained. One fact is certain; no matter what statistics are used, the problem has reached staggering proportions.

INITIAL EXPECTATIONS

To those parents who have been awarded child support, it should realistically represent a dependable source of income and should be factored into the post-divorce budgeting of both parties.

Much to their surprise, budgets are often dealt an unexpected blow after a few months to a year. For a variety of reasons, some grounded, some not, child support payments begin to dwindle and/or end abruptly. It is now quite evident just how insecure their financial future is. The effects are far-reaching and traumatic.

The harsh reality of the situation causes frustration and disbelief on the part of the custodial parent, often resulting in a substantial loss of valuable time before deciding to take legal action to recover outstanding child support. This hesitation causes a further disadvantage when enforcement proceedings begin. Financially weakened, they cannot afford the luxury of an attorney. Most are not eligible for free legal aid or Welfare. On the other hand, the delinquent parent has an entire paycheck available for legal fees.

A point of interest that is frequently overlooked by our judicial sector—is if delinquent parents paid their child support, an attorney would not be needed. A parent has chosen to support an attorney, rather than the children.

By allowing delinquent parents to evade child support, either through the judicial systems lack of enforcement or the custodial parents reluctance to begin legal proceedings, the attitude is perpetuated that the children are surviving without child support and therefore, do not really need it. Eventually, child support is viewed and referred to as the "ex-spouse's money".

When the custodial parent does turn to legal counsel, they often seek advice from the original divorce attorney. After being advised of the fee, which is typically ⅓ or more of the arrearages, the custodial parent may decide to review other alternatives.

If a decision is made to contact the Court, the case would normally be referred to the Support Collection Unit or, in extreme financial cases, the Welfare Department. This pursuit of collection usually begins with a warning letter from the attorney or Support Collection Unit to the delinquent parent. If payment is not then received, the next step would be to prepare a petition for a hearing. After issuance of a notice of hearing, one would reasonably expect payments to resume. What one might expect and what one actually receives is not always the same. One would also expect a simple set of judicial procedures and a sympathetic court clerk. In spite of all your difficulties, you have an innate belief that the Court will enforce the support order.

It should be noted that fees are charged to non-AFDC parents for services that are freely given to those receiving AFDC. This is a major factor that deters many needy parents from further pursuing collection.

INITIAL PROCEDURES

Step one—the initial process is implemented in many ways depending on where the non-custodial parent resides.

If both parents reside in the same jurisdiction, there is no question of jurisdiction and likely very few problems with service.

Jurisdictional problems arise when the absent parent resides in a different jurisdiction. If the parent's whereabouts is known, the available remedies are URESA, RURESA, and long arm statutes. Travel to the hearings in the responding states is advisable, when possible. It is, however, not the usual procedure for the responding state to notify the custodial parent of the date of hearing—Therefore, one has to be in constant contact with the Court.

Once located, there is nothing preventing the delinquent parent from moving across county or state lines. Thus, it becomes necessary to begin the process over again in most cases. Very few states and counties cooperate fully when faced with this situation, as it can become very time-consuming, without any hope of satisfaction.

The most difficult and frustrating set of circumstances is when the absent parent has disappeared. Even utilizing available contacts through former employers, family, friends, and eventually Parent Locator Services, your efforts might well result in failure. If you do succeed in locating, then URESA, etc. can be used. On the other hand, Welfare or poverty level existance are the only alternatives. More and more we find parents returning to the extended family home, adding extra financial burdens on family and/or friends.

WEAKNESS IN JUDICIAL ACTION

Lack of Judicial enforcement is typically caused by due process technicalities. Due to a wide range of judicial latitude and broad interpretation of existing laws, there are many variations in what actually constitutes valid service.

Close encounters with Court personnel have shown that some internal problems are founded on a shortage of experienced, qualified and interested personnel. The rapid increase in child support cases over the past few years has left us with an overburdened staff in our court systems. It is quite unreasonable to expect high quality performance from one counselor who may be responsible for the maintanance of over 600 cases.

The possibility of a series of continuances is ever present. Request for interrogatories before initial hearings can be a valuable tool, but is too often misused as a delay tactic by the defense. Delays and continuances often benefit the delinquent parent by forcing the custodial parent to give up their battle.

Varying circumstances sometimes prohibit cases from being heard in a timely fashion, thus resulting in a period of months before the first hearing is scheduled. During this time unpaid child support continues to mount. An inexperienced child support recipient usually assumes that, after registering a petition with the Court, child support will be forthcoming immediately. Surely anyone being issued a "Show Cause" notice or Notice of Hearing by the Courts will be intimidated by such an action. Everyone knows that you can go to jail if you do not pay child support. But, in fact, do they?

The scenario of the hearing usually brings the customary first offense wrist-slapping or suspended sentence. The "token" partial payment only creates further disrespect for the system and sets the stage for modification of the existing monthly obligation. Brinksmanship is used many times by the delinquent parent and unfortunately is allowed by the Judge in the process of enforcing a child support order. When arrearages have been allowed to reach an amount deemed by the Judge to be punitive to the delinquent parent, they are often modified or forgiven. This decision, in reality, is punitive to the children.

RECOMMENDATIONS

There are many areas in need of improvement. Judges should make a sincere effort to strictly enforce existing laws. Emphasis should be given to the narrowing of judicial latitude, wage assignments, registration of foreign judgments and liens, and the application of incarceration and work release programs.

With the overwhelming increase in child support cases, many Courts are overburdened and cannot perform their required duties effectively. Hiring and training adequate numbers of personnel should be a high priority.

Through the use of computers, a logical move would be to institute a "self-starting" mechanism for collections. Much of the burden of initiating the legal process is placed directly on uniformed and frustrated custodial parents. A self-starting mechanism would eliminate much of the delay caused by the show cause process that is used in most states.

Information resources could be improved through the use of Credit Bureau Data Banks. Los Angeles County, California has experienced a significant increase in collections since its implementation in 1981. Operative costs are extremely low and eventually become self-sustaining.

Repeated delays in hearings cause a substantial amount of lost time from work. Many parents, who are now the sole support for their children, are prevented from pursuing collection of child support because they can ill afford to jeopardize the only source of income for their children. Night Court is a possible solution to this problem and also, would alleviate the overcrowded daytime docket.

Lack of uniformity is not limited from state to state, but county to county, and even agency to agency within counties. Standardization of Federal Regulations deserves immediate attention with particular attention to interstate cases. The success ratio of interstate cases could be increased through federally enforced compliance by the States of existing and future reciprocal legislation.

IMPROVED DIVORCE DECREES

Lets now return to where the problem originates—divorce. The introduction of Divorce Guidelines by the States could preclude some of the inevitable results when all issues are not equally addressed pre-divorce. The following are suggested: (1) Joint custody consideration, when desired; (2) defined visitation (this not only encourages child support payments, but eliminates a familiar battleground); (3) strict enforcement of visitation rights; (4) provision for payment problems—e.g., interest, attorney fees, allotments, judgments; and (5) provision for child support during visitation.

PARENT LOCATOR SERVICE

Although the State Parent Locator Service is successful in most of its efforts to locate parents, it is self-limiting by not using every available resource for obtaining locating information. Most locator services rely strictly on Social Security and IRS information. The utilization of Credit Bureau Data Banks is a relatively new idea and is being approached cautiously. Data Banks contain the most recent information regarding current address, employment and bank account data. Information from presently used sources is sometimes as old as 2 years. Further delays in starting your search can be caused by the tremendous overload of cases. Response times quoted are as much as 6 months. Only after all other resources have been exhausted, is a request filed with the Federal Parent Locator Service. Addresses are not difficult to ascertain, but this does not insure exact physical location for valid service of legal documents.

URESA

After finally obtaining an address you are able to commence a URESA action. Your success will be based solely on the level of reciprocity between the two states involved. Many non-IV-D states are experiencing resistance from total IV-D states. (See attached chart #1) There have been reports of complete rejection of URESA cases, attempts to charge fees of $60.00 per hour, assessment of fees ranging from 5 percent to 13 percent. Fees are assessed non-AFDC parents by the initiating state, and again by the responding state. These fees are being deducted from the child support collected, therefore further penalizing the custodial parent and children in their efforts of collection.

It is also important that parents are advised that their child support is put in jeopardy by URESA. A URESA order is, in effect, a new order and not bound by existing orders. The existing amount of child support can be modified or completely dismissed by the responding Court. This is usually due to testimony given by the defendant, who is present at the hearing. The plaintiff, on the other hand, has to rely on representation by the State Attorney's Office, who has no pertinent facts before him, other than the financial sheet filed with the petition and takes no steps to request additional information from the plaintiff. Child Support is rarely ever increased during this process.

URESA was not designed to address arrearages and therefore, they do not receive adequate consideration. Even so, the outstanding amount of arrearages is frequently allowed to be introduced into testimony by the defendant or his attorney, and at the discretion of the local Judge, be dismissed or reduced. Arrearages can be completely erased. This action can produce devastating effects for the custodial parent who has relied on the Courts to collect what would appear to be a lawful obligation. Under the Common Law, such modifications are allowed. A number of States have passed statutory restrictions on this power, thereby reducing or eliminating the judiciary's power to modify or dismiss arrearages. Federal legislation mandating all States to pass comparable statutes would significantly benefit thousands of children annually.

A reasonable response time to URESA cases is considered to be 90 days, but this again depends on the level of priority placed on incoming cases. Lack of communication and cooperation between states or jurisdictions have been known to cause delays of up to 1 year, which results in dismissal in many cases. Due to our mobile society, it is very unlikely that a child support evader would remain stationary for very long.

NONSOLUTIONS

There is always the possibility of failing to acknowledge the severity of the problem and to hide our heads in the sand. By failing to clarify the original intentions of the IV-D program and continuing to disallow non-AFDC cases to avail the same services provided to AFDC, we could remain status quo. Attempts at some form of uniform payments or child support taxes would result in extreme opposition, and rightly so. This type of legislation lacks clear thinking and is not in keeping with our judicial doctrine of fair-play.

CONCLUSION

Although the problems of child support had primarily been considered a woman's problem, more and more with the introduction and popularity of joint custody, and the father being granted sole custody in some cases, we are now faced with a nondiscriminatory problem.

Failure of remarrieds to enforce child support obligations further condones this crime. It is unfair to allow a step-parent to assume the financial obligations of a step-child. This attitude has been incorporated into the formulas used by the Federal Government in determining the Family Contribution regarding the financial aid to college applicants and eligibility for Welfare. The step-parents income is also included in the formula for the fees charged to non-AFDC cases under the IV-D program. The Federal Government, on one hand, is expending enormous amounts of money and energy in an effort to enforce child support obligations and on the other hand, encouraging and condoning the assumption of the biological parents responsibilities by the step-parents. This is contradictory to say the least and contributes to the overall continued delinquency of the child support evader.

The brunt of the financial burden continues to rest on the shoulders of the custodial parent as evidenced by the following: (1) sole support of the family, (2) initiation of legal action, (3) attorney's fees, (4) fees for IV-D services, and (5). loss of pay or job—due to constant absences from work (e.g., child-related problems, unnecessary court continuances, other child support related situations, etc.).

Serious consideration should be given to the proposals of a mandatory wage assignment in cases of delinquent child support and requiring all States to implement voluntary wage assignments. Following the established deductions for Federal Withholding Tax and Social Security, child support obligations could become an automatic deduction. The child support order would follow the obligor from job to job. By identifying the child support obligor through a Social Security number, employers would check with a centralized computer data bank before issuance of the first paycheck. Although there is the possibility of an evader changing his Social Security number or having several numbers, the risk is relatively low. With the existing contact between the computer systems in key Federal agencies, such as IRS, Social Security Administration and Federal Parent Locator Service, and in addition Credit Bureau Data Banks, it is likely that child support evaders would be forced into meeting their responsibilities. These key computer systems would also be utilized by the child support clearinghouse.

The proposed recommendations of the Economic Equity Act are probably the strongest that our society can cope with at the present time. We, therefore, strongly encourage the passage of the Economic Equity Act.

TESTIMONY OF RUTH E. MURPHY, REGIONAL COORDINATOR, ORGANIZATION FOR THE ENFORCEMENT OF CHILD SUPPORT REGARDING TITLE V OF S. 888

This testimony will outline the events that frequently occur in a child support enforcement action. The inadequacies of the current system are presented by means of a brief case history.

Establishment of child support orders as a consequence of divorce;
Development of non-payment patterns;
Initial attempts to have support orders enforced;
Financial pressure created by lack of enforcement;
Interstate obstacles—URESA, lack of reciprocity between States;
Self-representation in child support cases;
Results—both positive and negative;
Need for stricter legislation and enforcement; and
Recommendations relative to the Economic Equity Act.

I wish to thank the Committee for allowing me to present testimony regarding Child Support Enforcement. Speaking from a personal viewpoint, I have experienced many of the inequities that exist. Because of the complexities it is difficult to adequately address every problem, but I will attempt to give you an idea of what one can realistically expect when trying to have a child support order enforced.

After several years of counseling, my first marriage ended in divorce in 1977. My former husband could not cope with the divorce and separation from family life. He, therefore, resorted to withholding child support in an attempt to force me into remarriage with him. When this failed he began others forms of harassment, first directly to me, and then through my three children. Withholding of child support payments continued to be a major weapon.

Many times my financial situation worsened to the point where I had to depend on assistance from my family and friends. My salary of $10,500.00 excluded me from any help through Legal Aid or Welfare, and I was advised to retain an attorney. Since I had very little savings, the only other anticipated money would be their child support, if collected. I experienced guilt feelings about the use of my children's money to prod the Court into enforcing a child support order. At that time I believed that I had no other choice and retained an attorney, whose fee amounted to ⅓ of the child support collected. This was the beginning of many child support actions. It dawned on me that a pattern had begun that would continue for the next twelve years—until the youngest child came of age.

During the next two years, along with sporadic partial payments, there were many months where nothing was received. I felt hopeless dealing with an inept system such as we have. I was determined that I would not be driven to the Welfare roles, even if I had to work at two jobs. During this time my former husband persisted to harrass the family in many ways. As frustrated as I was, I continued to encourage him to visit his children. He preferred not to exercise his visitation rights on a regular basis, and therefore only widened the gap between him and his children.

In 1980 I entered into marriage with a man who has three children. We faced an extremely difficult financial situation with the responsibility of supporting my three children, his three children, ourselves, and an ex-wife, but we were determined that we could do it. There was always the possibility that some day the child support would be forthcoming. The failure of second marriages is often attributed to this type of financial stress. It was quite evident that with our financial outlay of totally supporting nine individuals, I could no longer allow the system to continue in the negligent way as it had for the past four years. There had to be a way to make the system work for my children.

There were many obstacles to overcome. I first wasted five months attempting an interstate action through URESA. During this time I was told by the State of Georgia that because my case was not a "new" case it dod not deserve immediate docketing and, as a result of the delay, my former husband was able to move across the country lines. This caused him to be removed from that jurisdiction and the case was dismissed. I was then advised to begin all over again. At this time arrearages had mounted to $3,700.00. he had made no attempt to pay child support for a year.

I was further discouraged by court personnel in attempts to deviate from the established URESA process. One visit to an attorney only reinforced my decision to proceed on my own. Because of my complex situation, I was told I could not expect the first hearing in less than six months. I first had to obtain my ex-husband's home address to begin any legal process. The personnel office of the U.S. Army Corps of Engineers, Savannah District advised they did not have a home address on file. I was forced by this negative response from a Federal Agency to file for parent locator services through the State. If I had not had an established case, a fee of $43.50 would have been charged for this service provided to Non-AFDC cases under the IV-D program. After locating my former husband, the first hearing was scheduled only two months after an attorney had advised that it would take at least six months.

With moral support from my children and my husband, I began to pursue the available avenues for self-education. Many hours were spent researching law books, writing and contacting agencies and organizations involved in child support enforcement.

With the permission of the Court, I proceeded to represent myself successfully at seven hearings in as many months. My former husband, on the other hand, could avail himself of the luxury of professional legal counsel.

During the following months a petition was filed by my former husband to reduce child support payments from $300.00 to $100.00 per month for three children. The Court, in its infinite wisdom, reduced the child support to $250.00 per month and gave him twenty-two months to pay arrearages totalling $1,100.00. This decision was not acceptable to him, and he appealed to a higher court. At the appeal hearing it was disclosed that my former husband had incurred legal fees of over $4,000.00 fighting an annual child support obligation of $3,600.00. It was clear that his reasons for not paying child support were not solely financial, but for other reasons as well.

My success was limited in collecting only a portion of the past-due arrears through angarnishment process. To avoid meeting his child support obligations which now include over $3,000.00 in arrears, my former husband quit his federal job of sixteen years and moved to another state. Now I am faced with a new challenge—a challenge that would not exist if it were not for the lack of importance placed on child support enforcement.

Although child support orders are legally binding contracts, they all too often receive less judicial enforcement than that afforded other civil debts, or for that matter, minor traffic violations. This lack of enforcement of child support orders, as exemplified by my own personal case, should not be allowed to continue. You now have the opportunity to help end this national disgrace by the enactment of the Economic Equity Act. I strongly urge you to vote for its passage.

[Attachments]

STATEMENT OF ALEXIS KURSTEINER, RESTON, VA.

In September 1981, I left Michigan and moved to Virginia with my two girls, aged 11 and 13, because of my hushand's continued abuse and threats. I retained a lawyer in Michigan who advised me to try to establish my six month residency in Virginia before filing for divorce. However, in late December my husband filed a divorce action against me in Michigan and in February 1982 the Friend of the Court (FoC) awarded me temporary custody and a weekly child support payment of $35/child. No child support was paid after this order, and after several contacts with the FoC a show cause hearing was scheduled in late May. At that hearing, the judge ruled that all arrearages would be held in abeyance until the final hearing in July, at which time the arrearages (approximately $1,000) were forgiven and my ex-husband was ordered to begin paying child support from that time forward. Despite semi-weekly phone or letter correspondence with the FoC, I received only one child support payment until another show cause hearing was scheduled in January 1983. The January hearing was cancelled, which I learned of after the fact, and my ex-husband was issued a one month continuance contingent on his meeting his support obligation during that time. We were both also required to submit proofs of our income and expenses—a questionnaire, pay check stubs, and previously filed income tax forms—by a specified date. Although my ex-husband did not pay the support or meet the timeline, he was granted two extensions. At one point, when I contacted the FoC to voice my dissatisfaction at the delay, he explained that he was allowing my ex-husband ample time so that he could make an equitable decision and asked if I had considered reconciliation since I was having so much financial difficulty. Another show cause hearing was finally scheduled in April. At that time my ex-husband purposely did not appear in court even though his lawyer and mine were both present, and a writ of body attachment was issued for his arrest. Nevertheless, the writ was never served and my ex-husband appeared in court unbeknowst to my lawyer or myself the following week. He claimed he had never received notification of the hearing and was not found in contempt of court by the judge. Also at that time the judge, upon the FoC's recommendation, lowered the support payments to $25/week per child with an additional $20 per week to be paid toward arrearages which amounted to approximately $2,000. This readjustment was made despite the fact that my ex-husband had reported a gross salary over double my gross salary and $9,000 more per year after deducting his business expenses. Still no support payments were made except for one payment just before the girls left to spend the summer in Michigan. My ex-husband is currently $2,300 in arrears.

STATEMENT OF MELISSA S. OWENS

I was separated from my ex-husband (Robert D. Owens) in July of 1978 at which time I was five months pregnant. My son, Ryan Steven Owens, was born on 12 November 1978. In November of 1979, my divorce became final. My ex-husband was directed, by my attorney, to pay $150/month in child support. These payments came directly to me. For the most part, these payments were late in arriving. Back in March of 1982, he started falling behind in his payments—one to two months. As of the present time, he is seven months behind ($1,050). I have attempted to reach him (by telephone—he had his number changed to an unpublished number; by mail—certified mail was returned), but with no success. He recently sent me a brief note expressing his dilema over finances and how in debt he was and that he would try to send me some money at the end of June. There was no return address on the envelope, but it was mailed from Lesage, West Virginia (his mailing address is Annandale, Virginia). I have received nothing from him. He has never asked nor shown any concern for his son, whom he has not seen since Ryan was five months old. I am a single working mother who has to watch every penny. I live from pay day to pay day, and Ryan's care while I'm at work runs me $200+ a month. Needless to say, his clothing and food costs set me back. He will be attending kindergarten in September of this year, and I desperately need financial assistance. I cannot afford an attorney, even though my divorce papers state that my ex-husband would be responsible for any legal fees required should he be delinquent in his payments. This occurred when I retained an attorney for my divorce. My ex-husband was supposedly responsible for one-half of the legal fees—he did not pay promptly, so I was asked to pay his part until such time as he could pay my attorney, whereupon I would be reimbursed this amount.

Where do I go from here?

STATEMENT OF PAMELA L. CHAPPELL, FORESTVILLE, MD.

My daughter, Shannon Marie Chappell, was born February 23, 1977. I was separated from her father, Robert Kevin Chappell, on May 9, 1977. At that time he was ordered to pay $25.00 per week toward Shannon's support. On May 9, 1979, I was divorced from Mr. Chappell and a "lien order" was placed against Mr. Chappell's place of employment, United Airlines. This "lien order" was ordered due to the fact that he would not make his support payments. I paid $800.00 in attorney's fees. On August 7, 1981, I again went to court and a "petition to cite for contempt" and "petition to amend lien order" was placed against Mr. Chappel. On January 14, 1982, a "show cause order" was drawn-up. The attorney's fees amounted to approximately $400.00.

I received support for approximately 10 months because of the May 9, 1979 "lien order". These payments stopped after Mr. Chappel's employment with United Airlines terminated.

Robert Kevin Chappell is a veteran and attends school on the GI bill. He claimed his daughter, Shannon, for approximately 1 year before it was discovered he was receiving an additional $48.00 per month for his dependent child, whom he did not support. I took action and filed papers with the VA. This was not an easy task. The VA gave me many obstacles, and without an inside source at the VA central office, I would not have received any satisfaction. Please note the attached questions that the VA sent to me after I had already submitted the appropriate approved forms. These questions has nothing to do with the fact that the court ordered Mr. Chappell to pay child support. Mr. Chappell received funds from the Government illegally.

My next step was to locate Mr. Chappell's whereabouts. He is living an San Francisco, California, but moves from county to county. Before papers can be filed, I must know his exact whereabouts. The only solid address I have belongs to this parents, who sympathize with me, but love their son . . . need I say more.

All these obstacles and little or no help from the Government (I did try the IRS, no one there know of any way to help), or social services, (I had help with parent locator, but still needed an attorney) has made me very discouraged and to the point of giving up . . . but you see, I can't, I have a 6-year-old daughter to raise, educate and give the best life I can offer. I can't do it alone. Instead of help, I get more obstalces (such as the fees taken from child support checks received at the P.G. County support collection unit). This fee should not be paid by our children. The delinquent parent should have to pay. Why should our children be the ones to suffer.

VETERAN'S ADMINISTRATION,
San Francisco, Calif., November 26, 1982.

MRS. PAMELA L. CHAPPELL,
Forestville, Md.

DEAR MRS. CHAPPELL: We need more information before we decide whether to pay you a part of Mr. Chappell's benefits.

To help us make a fair decision, please use the attached form to give us the following information:

1. Are any of the veteran's children living with you? If so, list their names.
2. Give the names and relationships of anyone else living in your household.
3. Show the average monthly income for yourself and the persons listed in Items 1 and 2.
4. Itemize the monthly living expenses for your household.
5. Show the value of your assets as follows: Cash————Stocks and Bonds————Savings and Checking accounts————Real estate (not your home)————Other————.
6. Itemize your debts by type and amounts owed.
7. How much has the veteran contributed to you or for the children each month during the last three months?
8. How much do you feel the veteran should contribute each month?
9. Why do you feel he is able to contribute this amount?

If we do not hear from you within 30 days, we will make our decision on the evidence we have.

Sincerely yours,

T. A. VERRILL,
Adjudication Officer.

STATEMENT OF ELIZABETH (CRICKET) MOORE, FALLS CHURCH, VA.

I am a single parent of four school age children. I am the sole financial and emotional support for these children, who are aged 13½, 12, 10½, and 7. Their father has not seen them since October 1979. He has written or called various of them approximately six times since then. For the first two years after we separated he sent the support payments of $112.50 per child per month ($450) which was stipulated in the separation agreement. During 1980 and 1981, the payments became irregular and/or incomplete. In September, 1981, he wrote a rambling, incoherent letter announcing that the only way he could "get to" me was to stop sending support payments. Threats of legal action brought a payment in December, 1981 which brought the payments up to date through October, 1981. He has not sent any money since then. In March of 1982, I obtained (without benefit of a lawyer) a judgement for the arrearage. In March of 1982, he quit his GS-12 job with the General Services Administration to avoid garnishment of his salary. Evasive and lying responses to my questions by his supervisor, colleagues, and the GSA legal counsel's office ensured that my attempts to garnish his final paycheck and his retirement contributions would fail. My paperwork was two weeks too late in each case. In the spring of 1982, a series of harassing phone calls were traced to the telephone he had at his accommodation address in Alexandria, Va. He was arrested, and after telling the police that he planned to move to West Virginia, was released upon his own recognizance. He failed to show on the court date (I spent a full day of annual leave), and was fined $750 in absentia in June, 1982. On July 4, 1982, he was seen sitting in his car across the street from my house. When the Falls Church police were called (I was somewhat afraid, as he had previously made threats against me and threats to take my son), instead of picking him up, they merely told him to move on! The support arrearages now total almost $10,000, the man is self-employed as a home improvement contractor (unincorporated, unreported) and my children are suffering. Since last fall, two ladders, the wheelbarrow, the sawhorses, the insecticide sprayer—but none of my brother's extensive carpentry tools—have disappeared from my unlockable garage.

Most recently, MasterCard, having lost the record of my change of status and account, attempted to collect over $3200 from me when they could not locate my ex-husband. I was compelled to appear in court twice (taking annual leave each time) to protect my credit rating and myself from his debt. The resolution (nonsuit for me and judgement against him) leaves me vulnerable should the company not be able to collect from him.

I have not attempted another judgement for the last fifteen months' support payments. When he is served at the Alexandria address, he merely moves to his West Virginia address (Hedgesville, about 2 hours from DC). My attempts to learn whether the W. Va. courts honor Virginia judgements have met with little success. The staffs of the W. Virginia Congressmen whom I have contacted have been of little assistance and it appears that I would have to pursue him through the West Virginia court system. At this time, I do not have the emotional, financial, or temporal resources to do this.

STATEMENT OF CHRISTINE STEGALL, ANNANDALE, VA.

"I'm sorry, but we can't go to see 'Return of the Jedi,' kids. We don't have the money." Who would ever have thought I'd be saying this to my children when every kid in the world will see this movie?

Today's date is June 25, 1983. I have not received the $200 child support check I have been getting this past year. This payment is due on the fifth of each month, being channeled throught the J. D. court with Linda Bozoky being the recipient. From the time my former husband, David Church, was ordered to pay the $200 sum, he has been constantly late in his payments. There has been continual correspondence with Linda Bozoky, attempting to retrieve the needed income. I am now supporting my daughters, Kim and Heather, on the gross amount of $16,000 annually. The net figure would be betweeen $12,000 and $13,000 which is used to cover the following expenses: $500 rent for the apartment, a $138 car payment, Choice, Penny's, doctor and dentist bills, a college loan, gas and food payments. It is no wonder that the "Jedi" had to be completely ignored for the time being. The only bills that have been taken care of this month have been the rent and the car. What money is left has gone to food. Thank God for the swimming pool. It has been the main source of entertainment for the children. The reason for the stop in child support was brought on by my action in court last month. David, the children's father, was denied visitation. The reason for this ruling: David had physically attacked his girlfriend in the presence of the children. Needless to say, visitation had to stop.

Since this has transpired, I have threatening phone calls: "I'll blow you away with a silencer." "Why don't you and those f--ing kids get on a boat?" After having been physically abused for years, there is no doubt in my mind that it will be continued.

I have been concentrating on finding work with more money, and have even considered relocating (New Mexico). There are many things to be taken into account at this time. I don't know how or if this organization can help but, if not for me, I will devote time to help other women, as I have had a six-year struggle. I don't cry anymore. I channel my anger in other ways—working, playing, writing, sewing, and continual busyness.

My priorities now are: (1) More money in a new job; (2) selling joint property; (3) new location.

I hope, for the children's sake and mine, that I can continue to strive for my goals. I will not know until July 14th, court date for show cause, if I will receive any child support. This is a long time to wait to pay all of the necessary bills.

Many decisions must be made based on the outcome of this date. I pray for all involved that they will be the right decisions.

STATEMENT OF MARIAN M. MCNICHOL, SPRINGFIELD, VA.

I was born in Honolulu and raised by my Hawaiian-Portuguese Father and my California born Irish-Indian Mother. Although my parents were divorced, I had a happy childhood, living with both parents at different times and with my Hawaiian Grandmother.

At eighteen I married a man in the Air Force and started raising a family. We had six children, one of whom died at the age of seven weeks in Japan. We were shuffled around by the Air force and the pressures of a large family and two jobs forced my husband into civilian life. When the children were small he decided to go back to school, using his VA benefits.

I had previously taken three years of art studies and one year of early childhood education and was able to start a child care business in hour home. We had a good life—the children were happy and healthy and were never in any kind of trouble. They attended parochial school in Alexandria and got good grades.

In 1975, we decided to move back to Honolulu and I went ahead of my husband; he was to join us after he got his business degree.

In Honolulu, the kids and I got a condo and I worked as a supervisor in a preschool and taught art. I did not know my husband had been running around with other women and had stepped up his drinking habits until he joined us and started in with the recriminations. The verbal abuse started then. I realize now he felt inadequate so he had to act the big shot—putting his family down in order to boost his ego and feel less guilty. I was a door mat, believing everything he told me, that I was stupid and ugly and a failure as a wife and mother. (You name it—he said it.)

He left for Virginia late in 1976 to take a job as an insurance salesman. In January of 1977, I returned with the children, in an effort to try to save our marriage. I got a job at a 7-11 Convenience Store and was promoted to assistant manager within three months.

The abuse got worse. Mac overdraw our account, picked on me and the children and it got to the point where I was afraid to come home at night because I'd hear how rotten I was until he passed out. The physical abuse started and I finally got enough courage to start fighting back.

I was then thirty five. I moved into the twins' bedroom, bought an old car and insurance and learned to drive. I got my own checking account so that the rent checks couldn't bounce and found myself a boy friend—one who boosted my ego instead of tearing it down—and started my long fight through the courts.

It was only after Mac had socked one of the twins in the face, and left a black eye and bruises (after several convictions of wife abuse) that the judge put him out of our home. I had the lease put in my name so that he could not come back without trespassing. The judge issued a court order stating that Mac could not visit the minor children unless he posted a $500 bond to insure he would not injure them. I was awarded custody and Mac was ordered to pay me $400 monthly child support. Our older son graduated from high school and the girls were fourteen and thirteen (twins)—and Phillip was eleven. I was working 6-7 days a week at the store, trying to keep the kids fed and the problems of nonsupport and trying to be a mother and father began.

I also had to take the children to family therapy and started in with group therapy trying to feel better about myself. But I found out that while I felt inadequate, everyone put me as the strong person—the leader of the group—because of the way I'd plodded ahead and resolved many of the issues.

The kids and I managed to keep laughing at the inequities of life—it sure beats crying although we did that too.

At any rate I have gone to court more times than I can keep track of—sometimes 6-9 times a year—it took me over a year to save up for and get my divorce. The court awarded me $100 a month alimony. At times my ex would disappear for nine months without any support at all and I would have to track him down with the aid of police officer friends who had "connections" in Prince William County. When we are able to locate him it sometimes takes months to get the warrants served. And then the phone calls resume. I mustn't persist or he will sue for custody of Phillip, and skip to another state. Mac has been jailed several times for abuse and nonsupport.

I have never been able to afford a lawyer and have made "too much" money to qualify for legal aid. Tell me how clearing $9,000-$10,000 a year with four children in high school and one in college is too much money!

I did not qualify for foodstamps or welfare and wouldn't accept it if I did—as a matter of principle—I was able to work—I did have to sell my grandmother's silver, jewelry and one karat diamond to help offset expenses in raising the kids and at times my husband's family and my dad helped when we had financial emergencies.

The girls have graduated and moved out and are working and saving towards college. Phillip (now 15) and I share a modest 3 bedroom townhouse and I drive a 13 year old car. I have been accused of having "delusions of grandeur" because I insist on the boy having medical and dental care and give him fresh fruits and vegetables. My ex tells me to send him out to "work".

Mac currently owes me approximately $3,000 through the Juvenile Family Relations Court and I held a back judgment of $4,300 (support) which I understand must be collected by the District Court through garnishment of wages. Last year when we went through that hassle my husband switched jobs and it took me some time to locate him (again through friends). We went to court in April and go again next month in July.

My ex tells me I will not get the back support because I would take Phillip to Honolulu to visit my father (who is dying of cancer) and I shouldn't use child support for that purpose. He forgets I sold all my valuables to pay for the kids' support, when he wouldn't.

As far as the courts go, I wish there were more counselors available to tell me which avenues to pursue with the limited resources at my disposal. (I am now working two jobs to keep me and my son in our pleasant neighborhood and quite frankly, I'm pooped!)

I realize that I've been one of the lucky ones—a survivor—I've managed to avoid the welfare trap—and when one door closed, another opened—a cliche but true. But there ought to be some way to protect the kids' rights and my own too, without further hassle from my ex husbands' irresponsibility and disregard. At times it has seemed that the man has had more "rights" than his minor children. Why? I didn't have them by osmosis, he is their father and one way or another there must be a way to force him to own up to his responsibility and obligation to his family.

STATEMENT OF MARTHA BAKER MALLARDI, HYATTSVILLE, MD.

Upon Petitioning the Non-Custodian Parent, herewith referred to as defendant, into the Montgomery County Courts, the Master would only register the "Foreign Decree" (Child Support (CS)/Divorce Order) and set arrearages of nearly two years. At the time I was employed and represented by Attorneys who requested the Master to make the defendant pay some monies for CS, fees incurred for petitioning, a wage lien or assignment, a contempt finding and/or modification of monthly CS amount (then being $105 for both children) since the Master knew of the defendant's steady employment income. (A "Smack on the Hand" was rendered and the case file was lost/never signed by the judge. My persistence found a clerk three months later who then had it signed but told me I must repetition the defendant for any enforcement of this registered Montgomery Co. Order.)

I applied to Social Services for aid by filing forms, interviewing, etc., only to be told by a worker I was ineligible for services other than the 2 time $50 worth of food stamps—based on the scales set for eligibility. (CS Order amounts were tabulated into my income though no monies were being paid, CS Enforcement forms were never processed.)

I wrote to Governor Hughes—asking that he review the criteria for eligibility for services and happenings in CS hearings in Montgomery Co. Courts. His timely response referred me back to the same agancy (Soc. Serv.) who then had me again, fill out the same forms as I had done in my initial outreach for services, but this "red-light" referral found me eligible this time for Emergency Funds and States Attorney (SA). (I wrote a letter to Soc. Serv. Supervisor who admitted my prior application had not been properly handled but I could spend no more food from the table to appeal the issue as he suggested.)

My case has since been handled by the State's Attorney's Office, Upper Marlboro, MD (SAO) who has represented me in 7 hearings since our registration of the CS Order into Prince George's Couunty.

The first of the P.G. County hearings was held July 13, 1982—ending with the registration of the Mont. Co. Order, A Pendente Lite Order of $200 monthly CS, and a rescheduling for August 3, 1982. (No CS monies were paid, the assessed arrearages of the Montgomery Co. Order were totally dismissed, and the defendant was only scorned by the Master for his behavior. At the request of the Master, this case was only to be heard by him.)

At the second hearing in P.G. Co., (August 3, '82) the defendant continued to appear proper person—tho the Master had suggested his attaining representation. Defendant told the courts he was then unemployed with $150 weekly income and said he had only paid $50 on the Pendente Lite Order. The Master then set a permanent CS amount at $300 monthly plus $50 to be paid toward arrearages. The Master again, told the defendant to attain representation and continued the case until September. (No. CS paid, SA request for Wage Lien/Unemployment Garnishment and any other relief denied.)

September Hearing was rescheduled for October 29, '82, where defendant again, appeared proper person and was found in contempt of court for not having paid CS other than one $50 on the Pendente Lite Order. The Master sentenced the defendant to 179 days in the House of Corrections with a $2000 bond and purge figure of $1,000 CS. (The defendant bonded for $200—2 hours later, and no monies for CS were paid—No Work Release imposed.)

Our fourth hearing was set for November 22, '82 to Show Cause Why Defendant shouldn't commence to serve contempt order. The defendant's Public Defender (PD) entered a plea of indigency, and their request for another continuance was acknowledged. My SA argued against the continuance because defendant did not comply with CS nor file exceptions. (SA's pleas were ignored as was my request for unemployment lien—defendant did not meet MD criteria for PD of less than $125 weekly income—No CS relief was rendered.—"The man is literate and does not belong in the House of Corrections" (Judge McCullough) = No incarceration with Work Release.)

Our fifth hearing was held on January 3, 1983, where arrearages were assessed at over $2000. The defendent paid $765 CS on purge figure, promised to comply if Master would continue case, Sentencing was not imposed and continuance granted til May 16, 1983. (Again, no implementing of lien or tax interception· tho Support Collection Unit (SCU) and SA met administrative process requirements . . . "We have no budget for NON-AFDC tax interception cases" (HHS Baltimore.)

Defendant petitioned me to court for Modification of CS amounts (April 20, 1983) where I submitted Federal Scales, Personal Financial Statement and Estimates of Ability for both to pay CS based on his plea (minimum wage) and my income. (This hearing was the only one held by a different Master who acknowledged all and denied the Modification.)

Our 7th P.G. Co. hearing was held on May 16, 1983, where defendant paid $1,620 and came into compliance with CS—pattern established to pay upon threat of incarceration. Imposition of Contempt Sentence again continued and defendant promised future compliance. (SA's plea for wage lien was denied, and case was continued to August 1, 1983.)

I have cooperated with the Sheriff's Department in Upper Marlboro with personal service for the second time—this time with a Wage Lien Petition pursuant to Article 16 5b, to be heard at hearing August 1st.

In the Montgomery and P.G. County Courts, I will hope that it will not take a "red-light" to clarify that the issue is child support enforcement, the child cannot earn a living—the parent can and must support these children until they can. There is presently good legislation and laws but there is no monotoring system at the Judicial level on the implementaton of them or decision rendered by Judicatures—such as custodian and non-custodian personal problems vs. child survival.

Through my experiences at the Agency level (Soc. Serv., State's Attorney, etc.) I hope that future non-AFDC clients seeking CS will be rendered the same avenues of aid that are available for AFDC cases—Better Funding for non-AFDC cases could be a revenue asset also as in State monies sought after in the Welfare cases—the Non-AFDC cases end up sucklings at some point, i.e., Emergency Check, Food Stamps, etc. while the non-paying parent feeds also from Unemployment, etc.

I cannot express succinctly the Blood and Guts and Food from the Table spent in my personal pursuit for child support enforcement at all levels. As in my alternative to the Court Process . . . Steny Hoyer's Office was able to have the Maryland Procedure of Federal and State Tax Interception investigated only to find improper utilization/budgeting barriers for non-AFDC cases.

The Crunching Economic Spiral is ever present in the Child Support Issue—There is a need for Penalties and Merits to be Federally imposed (funding and fines) to States that Do and Do Not Comply with child support enforcement laws for the non-AFDC as well as AFDC cases . . . for the non-government employee as well as the government employee.

I have come to know my own "power to be heard" of these problems in cooperation with all of all. Less the intimate experiences with peoples involved, I herewith submit to you, the Senate Finance Committee on the Economic Equity Act, another "red-light" case study and am proud to support Title V in hope for your continued interest in our children.

This father left the family in the summer of 1976. I filed a motion for support shortly after he left. I did not know his whereabouts, but was told by a third party he was in another part of the state. This is where I had the subpoena sent. It was returned with the notation that he was not in that area (his cousin was the sheriff). The judge in the county where I resided threatend me with contempt of court if I returned in two weeks without a "good" address for him. I went back and dropped my petition. I had no intention of going to jail or facing a fine for trying to obtain support for my daughter simply because I could not drag her father into court by his neck. I filed a second petition for support while I was in another state, he was living in the northern Virginia area at that time. I was able to get him into court and was awarded $160.00 per month plus medical expenses. This support was paid only after my return to this area five months later. He has yet to pay the medical expenses. He would generally pay one month and then not pay until I obtained another "Show cause". I was in court on the average of once every three months. The people in the support section of J&D court for this particular county showed great displeasure in my insistance for court dates to try and obtain support for my daughter. Finally, in late 1978 I was no longer able to work and I had to apply for welfare until my Social Security was approved. I again petitioned the court for support in 1979. At the time the support was upped to $225.00 per month with me paying the medical bills. He never paid. I located him again and went to the state support enforcement agency. The individual I had to see was very upset that I appeared without an appointment. I asked her to get a subpoena as soon as possible because I knew he would disappear again. She said she would handle it her way and she had no intention of speeding things up because he had rights under the law to be notified after he had missed (I believe) three payments. So I petitioned the court myself (the case was transferred to the Circuit Court by my child's father on appeal of the $225.00 amount that was previously ordered.) I was able to get him before the Circuit Court judge in August 1980. He appeared with his expensive attorney ($175 per hour!!). I of course could not afford an attorney, and so he managed to get over $1,000 dropped from the arrearage. Without my knowledge the state support enforcement had my case transferred back to juvenile and domestic relations court the next month. The state enforcement individual I had to deal with informed me "she was a personal friend with judge ——— and he told her how to get the case back into his court. I was informed by a friend who worked in the J&D court that my attorney was cursing me out because I had already taken my husband to court the previous month. The attorney was not MY attorney but represented the state enforcement agency. I was unaware that when I signed up for welfare that I had also signed my rights away regarding anything about my daughter whatsoever!! I might add even though I had supported her while most of this arrearage was accuring I had actually signed up my rights to any of this arrearage. This was never explained to me. Therefore, I received nothing but a hard time for all my efforts. Until the law is changed giving back the government ONLY what they give to me I will refuse to put her on welfare. I have had a long tangle with my eligibility workers over this. They cannot understand why I would deprive her of $73.00 per month when I eventually hope to receive $225.00 owned to me by her father!! After joining The Organization for the Enforcement of Child Support they gave me the courage to fight again. I located her father in yet another state and the case is still pending on the arrearage. I did receive two months support though. My child's father claims to "love" her and would like custody. He believes he is a fit and proper father. How does she feel? "If daddy loves me he would help support me and visit me."

Mrs. **Kennelly**. What was the time span in that testimony from the beginning to the end, where you are today? No end?

Ms. **Mallardi**. Pardon?

Mrs. **Kennelly**. In your testimony, what was the cumulative time span, months, weeks, years?

Ms. **Mallardi**. In Prince Georges County alone, since my application to social services, 1½ years. Cumulatively for both county systems, 2½ years. This does not include the years spent in out-of-court appeals to the noncustodian parent for child support.

Mrs. **Kennelly**. So you were 2½, going on 3 years?

Ms. **Mallardi**. Yes.

Mrs. **Kennelly**. If you will excuse me for a minute, I have 5 minutes to make it to the Capitol and I will be back and Chairman Ford will be back, too.

[The following was subsequently received:]

PRINCE GEORGE'S COUNTY, MARYLAND

A Proclamation

COUNTY EXECUTIVE
Parris N. Glendening

COUNTY COUNCIL
William B. Amonett
Jo Ann T. Bell
Richard J. Castaldi
Frank P. Casula
Anthony Cicoria
James M. Herl
Sue V. Mills
Hilda R. Pemberton
Floyd E. Wilson

WHEREAS, the failure of parents to provide child support for their children has become a major problem in the United States; and

WHEREAS, this failure to meet obligations to children is costing taxpayers millions of dollars each year in child support payments; and

WHEREAS, this drain on the finances of the nation will continue until such time as the public demands that delinquent parents meet their obligations; and

WHEREAS, one way to stimulate such awareness is to publicize the problem and solicit the cooperation of all citizens; and

WHEREAS, the Prince George's County Government wishes to do all it can to bring this problem to the attention of the public; and

WHEREAS, public awareness can be stimulated by naming one month each year when emphasis is placed on the child support problem.

NOW, THEREFORE, Be It Proclaimed by the Prince George's County Council and the County Executive that August, 1983 is "Child Support Month" in Prince George's County and all citizens are urged to support efforts to require parents to assume their financial obligation to their children.

Frank P. Casula
COUNCIL CHAIRMAN

Parris N. Glendening
COUNTY EXECUTIVE

METRO CHAPTER
Organization for the Enforcement of Child Support
P. O. Box 33367
Washington, D.C. 20033

FOR IMMEDIATE RELEASE

July 20, 1983

Contact: Ruth E. Murphy, Coordinator
OECS, Metro/No. VA Chptrs.
703/281-2146

Martha Baker Mallardi
Judicial Chair, Metro OECS
301/559-3172

Elaine Fromm, President
OECS - Maryland
301/833-2458

AUGUST 1983 "CHILD SUPPORT ENFORCEMENT MONTH"

Throughout the Nation, at all levels of the Government, Legislatures are being called upon to proclaim August 1983 as Child Support Enforcement Month. The National Reciprocal and Family Support Enforcement Association (NRFSEA) has introduced Joint Resolutions to the House and Senate to have August 1983 proclaimed as National Child Support Enforcement Month (Senate Resolution 56 - House Bill 273). Proclamations by the State of Virginia and Prince George's County, Maryland are being presented to members of the Northern Virginia and Metro Chapters of the Organization for the Enforcement of Child Support (OECS).

In response to a request submitted by Ruth E. Murphy, OECS's Metro and No. VA Chapters, Virginia Governor, Charles S. Robb has recognized August as Child Support Enforcement Month in Virginia. State Ceremonies to be announced. On July the 22 1983, Public Hearings will be held before a Joint Sub-Committee studying Virginia's Support Laws (HJR-74).

(more)

A television program will be shown in the DC Metro area devoted to Child Support Enforcement on WETA Channel 26, 8/4 - 9:00 pm, 8/5 -1:00 pm, and 8/7 - 3:00 pm. The Maryland OECS is a featured participant in an hour long discussion. MD OECS is a non-profit, tax-exempt corporation sponsoring a series of workshops in Baltimore, September 22-27, on "How to Obtain, Enforce, and Modify Child Support Orders in Court through Self Representation".

OECS's Metro and Northern Virginia Chapters are Peer Support, Self Educating Grass Roots Groups with goals of insuring the enforcement of the existing Child Support laws, increased public awareness, guidence to those pursuing their rights under present system, and assistance with resources and referrals.

In Cooperation with the Commission for Women, Metro OECS will be giving workshops at the Annual Women's Fair November 6. For further information contact Susan Helfrich, P.G. County Commission for Women, Upper Marlboro, MD

On July 26, in P.G. County Maryland, a Joint Executive and County Council proclamation for August 1983 being Child Support Enforcement Month will be presented to Martha Baker Mallardi, Metro OECS with ceremonies to begin 10:00 a.m. at the County Administration Building in Upper Marlboro, MD.

Further Prince George's County Maryland awareness of the Child Support Enforcement problem is demonstrated by their recent Resolution (CR-92-1983) to appoint a 17 Member Child Support Task Force to study the process by which Child Support

(more)

payments are made. This Task Force will be comprised of the Executive, Judicial, Legislative branches of the government, the State's Attorney's Office, Sheriff's Department, Bar Association, and the General Public. OECS's Metro Chapter urges your support to their request for 5 seats to represent the public - knowing our children are the heart of this social and economic issue and that our first-hand experiences are the otherwise missing element to a complete analysis of the Child Support problems. Direct your responses to the Honorables Parris N. Glendening or Frank P. Casula, P.G. County Council, Upper Marlboro, Maryland.

Recent testimonies presented by the Metro, Maryland and Northern Virginia Chapters of OECS at the Senate Finance Committee Hearings on Title V of the Economic Equity Act (S 888) and House Ways & Means Committee Hearings on Bill 2374 have helped in substantiating the magnitude of the Child Support Enforcement problems today.

Through the success of OECS interaction with Elected and Appointed Officials and Agencies, we hope to encourage other Grass Roots Organizations and the General Public to request their Legislatures to also observe August 1983 as Child Support Enforcement Month throughout the Nation.

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Chairman **Ford**. The committee will come to order.

STATEMENT OF FRAN MATTERA, PRESIDENT AND FOUNDER, FOCUS, FOR OUR CHILDREN AND US, INC., HICKSVILLE, N.Y.

Ms. **Mattera**. My name is Fran Mattera, president of FOCUS, For Our Children and Us, Inc.

In 1975, when Congress established the child support program, title IV–D of the Social Security Act, the establishment of a comprehensive support enforcement system was envisioned, in mandating States to provide aid to families with dependent children and non-AFDC related services.

It appears the purpose of the program was to provide opportunity for all children to receive support from their parents through more effective enforcement of State and Federal laws.

While the primary objective was to directly reduce the increasing burden on the taxpayer maintaining the AFDC program, the law also required the States to provide child support services to all applicants that were not in the AFDC program.

It is important to understand that practitioners in the field of support enforcement believe the wrong approach has been used in the attempt to address poverty among children. Instead of encouraging States to collect child support for children, AFDC collections for Government reimbursements are now emphasized.

The law created two programs to address the one issue of nonpayment of child support. However, the Federal Government began to concentrate more than ever on the public assistance aspect of the child support program by consistently recognizing only AFDC related accomplishments.

A study presented to the Senate Finance Committee by M. Winston and T. Forsher, "Non-Support of Legitimate Children by Affluent Fathers as a Cause of Poverty and Welfare Dependence," stated that nonsupport of legitimate children by affluent fathers was often a cause of poverty and welfare dependence.

Another conclusion in the study was that attorneys and public officials found child support issues boring and in some instances even hostile to the concept of fathers being responsible for their children.

This was my bible in 1974 when appearing before legislators, much of it holds true today. Over 7 million children are presently receiving public assistance in the United States through various Federal and State welfare programs.

Of greater concern is the possibility that the very existence of the welfare program has caused some absent parents to conclude that if they have marital difficulties, they need not worry about the consequences of financially abandoning their families. The Government will provide assistance while they establish new lifestyles and often become parents of more children.

The 1970 census figures showed 8,265,500 children living with 1 parent. By 1980, the figure has grown to 12,163,600 nearly a 50-percent increase. In 1956, the total cash benefits expended to assist children was just over $617 million.

By 1982, that figure has increased to $12 billion annually, a 2,000-percent increase in 22 years. Additionally, billions were spent on food stamps, medical benefits, and other related programs.

The present system lacks reliability and is very slow to react to children's needs. On the local level, it takes anywhere from 6 to 8 months to procure a court order for child support and in over 50 percent of the cases, the court order produces little or no results for the child.

The interstate reciprocal procedures take even longer and because enforcement procedures vary from State to State, if they exist at all, the results are even more frustrating.

FOCUS, For Our Children and Us, Inc., a New York State-funded paralegal agency, has as its primary objective the enforcement of court-awarded child support, to avoid the experience of women and their children having to sustain themselves on the public assistance rolls at the expense of the taxpayer.

In the 12-month period April 1, 1982, through March 31, 1983, a total of 3,212 clients were served in our 3 offices. Of course, 94 percent were women and 6 percent men.

FOCUS, For Our Children and Us, Inc., endorses and supports H.R. 1014, Congressman Biaggi's proposed bill to establish a bipartisan national commission to study ways of improving Federal and State efforts to enforce child support obligations and recoup delinquent child support payments.

FOCUS, For Our Children and Us, Inc., makes the following recommendations:

Under IV–D Federal regulations, the rights to support payment are assigned to the department of social services so long as there is an active public assistance case. This in its strictest intepretation, that is, New York City, denies the individual welfare recipient speedy access to the court to petition in her own behalf for support adequate enough to remove her and her children from the welfare rolls.

Only department of social services can file these petitions. We recommend that these title IV regulations be amended to allow the welfare recipient free access to the courts.

Although some States use payroll deduction for securing child support payments from salaried individuals, not every State does so. FOCUS recommends that a Federal mandatory wage-deduction law be enacted and enforced with that wage-deduction to follow the obligated parent from State to State for whatever job he may hold.

At this time, there is no wage-reduction or any other means of securing support from the self-employed person who is delinquent in child support payments. We recommend that the IRS be empowered to collect child support payments in the same manner as quarterly estimated taxes are collected from the self-employed.

The department of social services can now seize the IRS refund check of an obligated parent whose family receives public assistance. FOCUS recommends that families not on welfare have access to the refund checks of those who are in arrears of their child support and/or maintenance payments.

FOCUS proposes that Federal enforcement of child support laws be strengthened to mandate: One, where violations are willful, incarceration of violator; two, undertakings, or bonds to insure future payments; and three, Federal law for sequestration of property regardless of State in which property is located.

We propose that the Uniform Reciprocal Enforcement of Support Act be made truly uniform, that is, in the adherence to provisions of divorce decrees from other States and in consistent enforcement of court orders.

We recommend that there be a Federal, centralized computer system for keeping records of those responsible for child support who are delinquent in their payments and adequate means to implement the collection of the arrears.

Thank you very much for your attention.

[The information follows:]

FRAN MATTERA
Founder & President

FOCUS

'FOR OUR CHILDREN AND US', Inc.

550 Old Country Road
Hicksville, New York 11801
(516) 433-8633

STATISTICS:

Some recent statistics we received from Sen. Alphonse D'Amato's office reveals the national dilemma in which recipients of court awarded support find themselves.

Number of families receiving AFDC*	3.5 million
Average monthly benefit	$250
Number of Children receiving AFDC	7.8 million
Situation of Father	
Deceased	3%
Unemployed or Incapacitated	11%
Absent from Home	85%
Parents Divorced	21%
Parents Separated	26%
Unwed Mother	34%
Other	4%
Father's Whereabouts Unknown	42%
Child Support Awarded	29%
Average monthly award per family	$129
Child Support Paid	13%

Another interesting statistic was the Child Enforcement Program Activities for AFDC families for 1980.

*Aid to Families of Dependent Children

3 Largest Programs	U.S.	CA	NY	MI
CASELOAD				
Number of absent parents*	4,583	850	485	304
as a % of families receiving AFDC	128%	170%	137%	134%
COLLECTIONS				
Number of families*	497	80	38	69
as a % of caseload	11%	9%	8%	23%
Average amount collected per family	$1,214	$1,182	$1,295	$1,122
Collections as a % of Total IV-D Administrative expenditures	134%	110%	81%	294%
NEW CASES*				
Opened	1,736	307	154	104
as a % of caseload	38%	36%	32%	34%
Paternities established**	144	15	14	9
Parents located**	642	116	63	34
Support obligation established**	374	51	28	11

*In thousands
** Includes non-AFDC cases

((B) New York State Temporary Commission to Recodify the Family Court Act)

TRENDS IN THE ADMINISTRATION OF FAMILY LAW

LAY ADVOCATE PROGRAMS

A number of non-profit agencies attempt to fill some gaps in services in New York. They are FOCUS (For Our Children and Us), SPLIT (Separated Persons Living in Transition), and the Victims Services Agency.

FOCUS provides paralegal services on matters of child and spouse support. Its principal reason for existence is "to facilitate the enforcement of court-awarded support, to avoid the experience of women and their children having to sustain themselves on public assistance rolls and placing the burden on the taxpayer."[53]

FOCUS's rationale for existence sound similar to those expressed in Michigan in support of the Friend's system:

"A primary need of our clients is to attempt to acquire spouse or child support and/or to enforce the support provision of a divorce decree. Because they have exhausted their resources or do not possess the resources to engage a private attorney, and because free legal services are unavailable to them on support matters, we are their last resort."

FOCUS's paralegals counsel clients on family court procedure and act as advocates in court, to both file petitions and to appear as a "friend" at hearings. The paralegals go to family court on issues of support, custody, visitation, and family offenses as well as enforcement of court-ordered support. A panel of volunteer attorneys provides guidance to the paralegal staff.

Their experiences can be summarized as follows:

- Of the 1,958 clients seen in 1981–82, 31 percent were married, 36 percent separated, 30 percent divorced, and 4 percent unmarried (only 9 percent were men).
- The income levels of the wives were substantially lower than the husbands. A large number of clients were seeking enforcement of family court support orders or divorce judgments.
- Many of the clients were unaware of their rights before coming to FOCUS, even if they already filed petitions in family court.
- In family court, they encountered long delays (of up to six months), forgiveness of arrears, denial of access by probation and incorrect information, unexecuted warrants; dual orders of protection, problems around the division of support between AFDC and private, DDS personnel misinforming recipients concerning support, and a general lack of public information.[54] (Attached as Appendix B is a copy of recommendations made by FOCUS in its 1982 Annual Report.)

FOCUS, POVERTY AND DIVORCE

(By Marilyn Goldstein)

THE POOR AMOUNG US

About 10 years ago, when a group of divorce and separated Long Island women picketed the Family Courts, claiming their husbands had routinely ignored orders to support their families, the women were hooted and jeered by passersby.

When they complained to legislators, they were greeted with condescension and disbelief. Their friends and families believed them, but considered the cases unique.

The concept then was that men were getting stuck; women were alimony drones," said Fran Mattera recalling the early years of a group she founded with other picketers called FOCUS, For Our Children and Us.

A decade and many studies and surveys later, statistical evidence has backed up the contentions of FOCUS that divorced, separated and abandoned women end up impoverished because support awards are unrealistically low and often never made or never paid, because it takes months to move cases through the courts and because proving a man's financial worth is often difficult. Now, when FOCUS talks, people listen.

The 1980 U.S., Census was only the latest national study to confirm the relationship of broken marriages and abandonment to poverty. According to the census, there are 13,174 female-headed households with children in poverty on Long Island, a 68 per cent increase from the 1970 figure of 7,835. Although the percentage remains nearly the same as that of a decade ago, because divorce has increased astronomically, the numbers of poor has increased astronomically, the numbers of poor women affected by it surged. Almost one out of every three female-headed households with children was in poverty in 1980, according to the census. In urban areas, a large part of that group is made up of women with children who were never married. But on Long Island, the bulk of such women are divorced.

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[53] FOCUS, 1982 Annual Report, p. 2.

[56] Although we do not have statistics as to the dual use of Family Court and Supreme Court, the experience of FOCUS suggests that as many as 95% of petitioners in Family court have been divorced or will be seeking divorces in the future in Supreme Court.

The census results paralleled those of federal statistics released in 1978, during the International Women's Year. The figures showed that only 14 per cent of divorced women are ever awarded alimony and of those, only 45 per get their payment with any degree of regularity. Only 45 per cent of divorcing mothers are awarded child support, and less than half receive it regularly.

The biggest jolt to the bureaucrats was that large numbers of formerly middle-class and upper-class families had been inducted into the female poverty corps. Their economic situation is not always ameliorated when they get jobs because of low wages earned by women, according to experts. Phyllis Borger, director of Displaced Homemakers in Levittown, said, "Women heads of households are poor even when they do get jobs. They start at the lowest salary while their ex-spouses have 20, 30 years worth of senority, job skills and contacts."

A 10-year study by a Stanford University research team found that after divorce, the income of women and their children declines steeply. Interviews with more than 200 attorneys and judges and 238 recently divorced men and women showed that wives of men who earned more than $30,000 a year averaged an income of $12,000 after the divorce. Many, the study said, were surprised to find themselves below the poverty level.

In some cases, it is a matter of economics. There just is not enough salary to support two households above poverty. In others, it is a matter of cases getting tied up in the courts. Mattera puts much of the blame on the court, which she says still frequently forgives arrears when a husband finally appears in court, allows adjournments that are stalling tactics and awards women inadequate sums.

William J. Dempsey, administrative judge of Nassau County Family Court, said the courts do the best possible given "the court overload and the need for due process." in 1981, 1,335 support petitions were filed in Nassau County Family Court and 2,230 in Suffolk.

"The majority of cases are disposed of in timely fashion," Dempsey said. But he said that determining assets can be difficult and time-consuming, particularly when a husband is self-employed.

Some progress has been made. In New York, courts can now automatically garnishee wages when a husband violates support orders, deduct arrears from income tax refunds, locate run-away husbands, and sometimes provide a destitute woman with a lawyer.

On the other hand, the so-called equitable divorce law, which became effective July, 1980, has gotten mixed reviews. It allows a judge to distribute assets to both parties even if they were in the husband's name, although not necessarily equally. The law also eliminated alimony and awarded women maintenance, usually for limited period of time.

Stephen Gassman, former chairman of the Matrimonial and Family Law committee of the Nassau County Bar Association, said "The law says the maintenance period can be given for an indefinite period. Too often it is assumed by the courts that it should be for a definite period . . . Where you have a dependent spouse that has no marketable skills, the maintenance should be for an indefinite period."

Mineola lawyer Lois Ullman, a family law specialist, said, the law works in cases "where there were substantial assets and they were all in the husband's name. The woman doesn't get half, but at least she gets something." Where assets are in both names, "women aren't getting anything like half. I believe it's because the judge still looks at is as the husband's money, the husband's property, the husband's business. Marriage is still not looked at as a partnership."

Women's groups are springing up to meet the needs of the growing number of divorced women in financial straits. One, Displaced Homemakers, offers divorced and separated middle-aged women a seven-week program of individual counseling, workshops in employment and employment counseling. But even its succeses are limited.

Barbara, 43, a mother of two hadn't been employed for 20 years when her husband left 18 months ago. She took the Displaced Homemaker's course and got a $10,000-a-year job with a social service agency. With all that, she and her children live just above the poverty level. "I'm proud of myself having come so far in a year and a half," she said. "But where do I go from here? I'm 43 and just starting out."

Last year, FOCUS served 1,958 clients in Nassau, Suffolk and its recently opened Queens office. The group advises clients in dealing with the courts and social service agencies in cases involving nonpayment of support orders, child-support awards and custody cases.

Mattera, who was abandoned 15 years ago and had to live on welfare for a while said, "We have had some new laws, the public is becoming aware of the fact there is a problem collecting child support. but we still have a long way to go . . ."

[From Newsday, Oct. 26, 1980]

STUDY FINDS POVERTY IN DIVORCE

CENSUS REPORT SAYS MANY MOTHERS' LIVING STANDARDS FALL AFTER SEPARATION, DIVORCE

(By Henry Spatzer and Lawrence C. Levy)

Barbara Simpson was 20 years old when she got married in 1976. But she says that her husband began "seeing another girl," and after attempts to work out their differences failed, they got divorced in March.

She said she asked for no alimony and hastily accepted only $200 a month offered by his lawyer to support the children, ages 3 and 1 "because I wanted to get as far as I could—and fast."

Then she went on welfare.

"It was kind of hard to live on $200 a month," she explained. "I couldn't get a job because I didn't want to leave the kids alone . . . I had to move in with my parents, which is hard on them. I'm too old to have them feeding and clothing me and my kids. I didn't have money to do anything else."

And in July the $200 a month stopped coming. Her husband, a soldier who was transferred to Germany at his own request, claims she didn't let him see the two boys enough when he was home on leave this summer. He has since promised to resume the payments.

According to a U.S. Census Bureau study to be released today, Ms. Simpson is among millions of divorced or separated American mothers whose standard of living has been sharply lowered after divorce or separation.

While the study, based primarily on 1978 data, did not include information on the economic levels of the husbands, it is considered by demographic experts to be one of the first major economic portraits of families headed by divorced or separated women.

The study found that of 7.1 million divorced or separated mothers in the United States in 1978, 4.2 million had agreements for alimony or child support. But the picture for them is dismal:

Getting the money from ex-husbands often is a problem. Of the 3.6 million women with voluntary or court-ordered agreements for receiving support payments in 1978, 1.2 million or one-third were paid less than they were supposed to—many of them got nothing at all. (About 600,000 other women who didn't get paid had agreed to some form of deferment until the following year.)

Of those with support agreements, 17 percent or 1.2 million were living below the poverty level or earned less than $6,600. The study did not say how many of them had lived at poverty level before their divorce. In 1979, 2 million divorced mothers were below the poverty level.

In 1978, child support or alimony was about 20 per cent of the average income of $9,000 for all divorced mothers and one-third of the income of poverty level mothers. The crunch is worse for black women, who received one-third less in payments than white women.

And as far as getting relief in the courts, the report found, "a court order did not seem to be an effective method of ensuring full payment since only three-eighths of the women with court ordered payments received the full amount, and about the same proportion received no payment at all." Women supposed to receive support under a voluntary agreement "fared better than women awarded payments by the court." Matrimonial lawyers, counselors and others familiar with the problem blame the poor economy for the large numbers of husbands not paying support or alimony. Some blame it on revenge or vindictiveness. "A man [feels] hurt or may be he's angry at the settlement or his wife, so what does he do?" said a counselor with the Nassau County Department of Social Services. "He rebels. He says, 'to hell with them. Let 'em sweat for it.'"

And some blame judges for being too lenient with ex-husbands who lag behind in payments. They believe that judges are too hesistant to hold a man in contempt of court. Others, however, argue that a contempt decree doesn't necessarily put money in the hands of the woman and might make collection harder.

And some women who don't have child support agreements do not seek them. "In many cases there is too much animosity" between the spouses, said Sidney Siben, a matrimonial lawyer from Suffolk. Attorney Lillian Bader added: "They want the man completely out of their life and their children's." And, said Gerald Friedman, some women feel they can't afford counsel or don't want to confront their husbands—persons who may have dominated and controlled their lives for years.

Debra Recine, who lives in Suffolk, said she doesn't need the census bureau or experts to tell her about the economic impact of a broken marriage. "I went from married, pregnant and working—to separated, pregnant and on welfare," said Ms. Recine, who was married in 1976 and separated two years later while she was pregnant with her son.

Her separation agreement called for her to receive $60 a week in child support. According to FOCUS, a private bicounty agency that helps people with divorce, alimony and child support problems, Recine appealed to that agency when her husband didn't pay. Recine said she couldn't afford a lawyer to make him pay, and she's also afraid of taking time off from her $168 a week job to go to court. She said the support payments would mean not having to live with her mother as she is now or in the mice- and roach-infested apartment above a store in Babylon that she recently abandoned.

Matrimonial lawyers, counselors, social service agencies and other experts on Long Island say the census bureau figures reflect their own experiences.

Jim Barlow, director of the Nassau County Social Service Department's office of child support enforcement, said that about 40 per cent of the 11,000 women the office handled this year are receiving some form of welfare. Figures from Suffolk County and Queens are much the same.

In 1978, the year the census study drew upon, about 25 per cent of the 525 women who went to FOCUS had difficulty getting payments for themselves and their children. FOCUS ("For Our Children and Us") found that more than 75 per cent of the total had incomes below $10,000, that most had been housekeepers for 10 to 20 years and had never worked and that most of the husbands earned more than $15,000.

The situation on Long Island hasn't changed much since.

Last month, FOCUS saw 71 divorced or separated women, who had a total of 110 children, and 29 of the women, or 40 per cent, needed help in getting payments from their husbands and said they could no longer afford a private attorney. Only one woman had an income over $15,000 and about 25 of them had incomes below $10,000, including 14 women who earned less than $5,000. Half of the women had been married more than 10 years (one-sixth had been married more than 25 years). Half gave their occupation as housewife, while one-fourth were secretaries or clerks.

Meanwhile, two-thirds of their ex-husbands had incomes of $20,000 or more. A third were professionals, skilled technicians or owned a business; half were service or blue-collar workers.

"Many times they're [divorced] from a professional or highly paid technician and they're not getting enough money to run the household," said Fran Mattera, FOCUS' founder and director.

Chris Akin, who handles FOCUS cases in Suffolk, said: "It's not even a matter of 'the style to which you're accustomed.' When they get jobs the [salary] is so low that it's not even enough to subsist on."

"I was left with a beautiful home with a pool," said Evelyn Pike, 50, who was divorced from her doctor husband four years ago after a 25-year marriage. "But I can't eat the pool or the bricks in the house." She said her husband, whom she said she put through medical school, moved in with a female patient and despite repeated court judgments against him frequently missed the monthly $250 payments. "I was on food stamps for 10 months. LILCO threatened to cut me off. He stopped paying the mortgage, and the bank threatened to foreclose." Luckily, the threat was never carried out.

States don't have reciprocal enforcement agreements in alimony cases, and although there are federal laws that apply for child support, getting a judgment often takes 6 to 8 months. Then there's the time and expense of traveling back and forth to out-of-state courts.

Local court appearances create enough problems for women who are "trying to put their lives together," Mattera said. "When she finally finds a job and then has to take off for filing [court records], for hearings and adjournments—well, after two or three times the emoloyer says, 'sorry, I need somebody dependable,' and she's back where she started."

"They'll tell you, 'you have too many personal problems,' " added Toby Wasserman, FOCUS coordinator for Nassau. "And sometimes when you get a job [the ex-husband] goes into court to try to cut off your payments."

FOCUS "For Our Children And Us"; Inc.

PURPOSE

To provide paralegal services to individuals in matters of divorce, separation, custody, visitation, enforcement of court-awarded child support, alimony/maintenance and related legal information under the guidance of a panel of volunteer attorneys.

SERVICES INCLUDE

Court advocacy

Paralegals accompany clients to Family Court and acquaint them with the procedures. Paralegals assist the clients in filing petitions and also on the hearing date(s). These advocates inform clients of their rights under the law and how to insure enforcement of the laws, i.e.: how to apply for a wage deduction order, serve supoenas or secure a judgment on the arrears.

Panels and workshops

Panels and workshops are held several times a year. Legislators, judges and attorneys participate.

Mini-meetings

Mini-meetings are held at various locations in Nassau, Suffolk and Queens. An attorney is present to answer legal questions relating to matrimonial situations.

Newsletter

Published bi-monthly, the newsletter informs and educates the community on Family Court procedures, legislation and news of general interest. Articles are written by members of the staff, guest attorneys and concerned citizens of the community.

Information and referral

Clients are informed of their rights and are referred to attorneys or appropriate community agencies or resources.

HISTORY

FOCUS, "For Our Children and Us", Inc. is an innovative program and the only one of its kind on Long Island and in the nation.

In 1972, Fran Mattera brought together a group of attorneys, social workers and community leaders who were committed to the enforcement of court-awarded support through Family Court. An educational program was instituted which seeks to inform the average citizen of his rights and options under the matrimonial and family laws of New York State.

In 1978, FOCUS, "For Our Children and Us," Inc. was incorporated as a nonprofit agency under the laws of New York State. At this time, paralegals were added to the staff to give assistance to clients confronting the complexities of the Family Court system.

FOCUS now maintains offices in Nassau, Suffolk and Queens Counties. Although the major source of funding comes from New York State, FOCUS also relies heavily on the in-kind services of professional volunteers and on the generous contributions of clients and friends.

Chairman Ford. Thank you.

Mrs. Mallett.

STATEMENT OF CONNIE MALLETT, PRESIDENT, PARENTS WITHOUT PARTNERS, INC.

Ms. MALLETT. I am Connie Mallett of Novi, Mich., and the president of Parents Without Partners Inc., which is a nonprofit international organization of 214,000 single parents comprising 1,100 chapters in all 50 States and Canada.

We are the largest and oldest organization for single parents in the world, with affiliates in Australia, West Germany, and Great Britain. We are the only national organization admitting single parents of all religions, races and types—separated, divorced, widowed, and never married—both men and women, both custodial and noncustodial.

I am honored to be here this morning to represent our organization and the interests of single parents. We have been in existence since 1957, and in the last 26 years more than a million single parents have passed through Parents Without Partners with their hopes, fears, and problems. One of the big problems single parents face is with child support enforcement.

You will have heard the statistics about the income problems of the single parent, and about how few of them ever receive the child support their children are supposedly entitled to.

Even if single-parent families were not economically disadvantaged for other reasons, the child support enforcement situation would still be a disgrace in this country because our children are not receiving justice in the courts.

But our families are economically disadvantaged, and are even more deprived of justice because we cannot afford the best lawyers, we cannot afford endless litigation, we cannot afford the second, third, fourth hearings and appeals.

We are a special interest group that is becoming increasingly alienated from a system of justice that has little justice for us. Penelope Toth, a member from Norristown, Pa., expressed the feelings of too many of our members when she wrote:

> It may well be that our present judicial system will cause or, at best, play a major role in our country's moral deterioration and eventual downfall. I am a divorced mother of two children. To settle the matters related to my divorce, I have had two Protection from Abuse orders, six hearings to resettle custody, over 20 hearings on child support, a divorce granted on personal indignities, which comes to a total of at least 30 hearings in the last two years; over a period of three years he accumulated arrearages of more than $11,000. The end result was that I got $4,000 in child support and I was forced into personal bankruptcy.
>
> I saw our Constitution being laughed at, attorney's one-upsmanship, too much brotherhood and sloppiness in our judicial system. The middle and poor classes do not get equal justice because they cannot afford it. Criminals laugh at the system, knowing all too well that they can beat it.

So, we enthusiastically support the provisions in each bill before you today that would provide for mandatory wage assignments in each State. We regard mandatory wage assignments as an essential underpinning of any effort to collect child support. As long as the absent parent works, this technique is the easiest and most effective way to collect support for several reasons.

First, when a single parent knows that she can obtain a wage assignment, spending money on an attorney becomes an investment in the future, not a drain on diminishing resources.

One of our staff members, who was unable to persuade court personnel to prosecute her case, finally realized that the arrearages would pay attorney fees if she could obtain a wage assignment. She was successful in joining the 20 percent of the child support recipients in her county who actually receive payment only because this mechanism was available to her.

Second, although some States do have provisions for wage assignments, it is still possible for an absent parent to go to a State which does not, thus avoiding child support payments. This State hopping creates an additional problem for the parent left behind, because interstate litigation is difficult, expensive, time consuming, and all too often unsuccessful.

Most attorneys tell us that during interstate litigation, the absent parent is more likely to receive sympathy because he is the only person the judge sees. The custodial parent and the children left behind become nonpersons as opposed to the one parent at the hearing.

So, by letting the absent parent know that he will not be able to work and avoid child support by this means, we may be able to reduce State hopping and make child support enforcement more uniform.

Third, a recurring problem that we hear about too often is that the success of child support enforcement efforts depends on the judgment of one individual: The quasi-administrative official or a judge.

Such power in enforcing the law, such allowance for individual prejudices, leads to such situations as the court personnel who told a member that her $75 a month support was too small an amount for them to pursue; or the domestic master who refused to issue a wage attachment for a $14,000 arrearage accumulated over 11 years because the nonpaying father had a drinking problem and the master felt sorry for him; a member from Chicago who took in ironing in the evenings after her full-time job in order to save the money for an attorney, only to be told by a judge that if she could afford an attorney, she didn't need child support; or the district attorney in Oklahoma who publicly announced that child support cases were too unimportant for him to prosecute, and so on.

We hear so many of these stories that they seem to be the rule, not the exception. Mandatory wage assignments for past-due and ongoing child support would correct this disgraceful abuse of laws requiring parents to support their children, and we point out that they are abused by judges, not just absent parents.

We would like to see mandatory wage assignments put into place from the very first court order for child support. We understand that many individuals object to having income withheld without first being in arrears.

We can think of no reason for this objection other than that such an individual wants an opportunity not to pay in the future. Our State and Federal taxes and social security payments are withheld from our paychecks, whether or not we intend to pay. We would like to see child support payments elevated to the same level of importance.

Second, we would like to point out that the first child support hearing and the first child support order are part of the due process and equal protection we are all entitled to.

Why should our single parents have to go through the trouble and expense to go back to court a second time to collect what was ordered in the first place? Why should they have to wait 2 months before initiating further court proceedings?

At the very least, a computerized clearinghouse with an accurate third-party record of payment could automatically initiate a demand for a wage assignment after an arrearage, so that the parent does not have to go back to court.

We also support with enthusiasm provisions to require liens against property in each State for past-due child support. Child support is a debt of the first importance, more important than car loans, credit card debt, and home mortgages because it is childred who suffer.

We fully support provisions in the Kennelly and Campbell bills to allow non-AFDC parents to take advantage of the same enforcement procedures now allowed the Federal Government to reimburse itself for welfare expenditures.

It has been argued that while Government can collect debts owed to Government, it should not intervene in private debts. We say that Government has an obligation to enforce its own laws, and that it has a special obligation to enforce laws supporting children.

A recent Supreme Court opinion, in *Pickett* v. *Brown*, regarding paternity laws in the State of Tennessee, examined briefly the differences in treatment of children receiving welfare who were entitled to sue for child support and the children born outside marriage who were governed by a statute of limitations. The Court said:

> The State unquestionably has a legitimate interest in protecting public revenue. However, the State also has an interest in seeing that "justice is done" by "ensuring that genuine claims for child support are satisfied."

The gap between the treatment of welfare and nonwelfare parents has been the subject of several communications from our members recently. Roxanne Burton of Maryland writes:

> Will there ever be help for those of us who are working, unwilling to readily accept welfare payments because we are able to work and want to be self-sufficient? We sacrifice every right to child support because so many of us make enough money to disqualify us from AFDC payments, yet our ex-spouses refuse to pay as the courts ordered, or do not pay at all.

Susan Speir, a member from California and the chairman of SPUNK [Single Parents United 'n Kids] writes, "It is no wonder that a lot of women go on AFDC because they know it is a steady income, while child support enforcement is not."

Please give us the same tool to collect child support that is now reserved for the AFDC child support offset program.

And in line with these arguments, we strongly support all other measures that would assure equal protection for the children of nonwelfare recipients, including incentive payments for the Federal Office of Child Support Enforcement efforts for non-AFDC collections.

We are afraid that in this time of budget cutting, our nonwelfare parents will be sacrificed because they are somehow making it. But while they may or may not be staying off the welfare rolls, their children are still suffering for not being supported.

Thank you for allowing us to be here today.

Chairman FORD. Thank you.

Mrs. Johnston.

STATEMENT OF MARGE JOHNSTON, PRESIDENT, DETROIT CHAPTER, KIDS IN NEED DESERVE EQUAL RIGHTS [KINDER]

Ms. JOHNSTON. Thank you, good afternoon.

I would like to thank you, Mr. Chairman, and the members of the committee for allowing people like ourselves, users of the system, to bring forth our opinions.

My name is Marge Johnston. I am president of the Detroit area chapter of KINDER, Kids In Need Deserve Equal Rights, a national organization of individuals concerned with the rights of children of divorced and single-parent families.

Kinder is a German word for child, and also stands for Kids In Need Deserve Equal Rights.

I am also a 36-year-old divorced mother of three teenaged children who has found it necessary to move back into my parents' home with my children in an effort to continue caring for my family without relying on AFDC.

My circumstances are similar to millions of others across the country. In many cases, custodial parents are women who have remained at home during their children's early years only to find themselves ill-prepared to be sole-support of a family after divorce.

Even in the case of a previously working mother in a two-income family, the increasing costs of raising children plus her lower income potential will guarantee a decline in income to the family.

A California study of 3,000 divorced couples found that 1 year after the divorce, the wife's income dropped by 73 percent while the husband's rose by 42 percent. The full collection of child support is the difference between poverty and self-sufficiency for most families.

The system, as it exists, encourages welfare dependency. Working mothers not on AFDC find little help in collecting back child support while many financial incentives are offered by the Federal Government to enforce AFDC collections.

Children who are affected by the failings of the child support enforcement program come, not only from families on welfare, but also from middle and upper income families who have had to make drastic adjustments in their way of life, often struggling just to put food on the table.

In March of this year, KINDER volunteers were involved in a nationwide call-in survey in which custodial and noncustodial parents from 48 States responded. During 1 week's time, nearly 3,000 people were interviewed and it is estimated that almost 80,000 call attempts were made.

Of the survey respondents, 51 percent reported that they had been on AFDC at one time or another since their divorce. Of these, two-thirds had applied for welfare because of lack of child support.

Eighteen percent of the respondents are currently AFDC recipients. Two-thirds of the AFDC recipients stated that they were capable and willing to work, had a plan for child care and would be off the welfare rolls if their child support were collected.

To insure that all children receive the maximum benefit of full collection of court-ordered support, it is imperative that we provide every available avenue for enforcement. Incentives must be extended to non-AFDC cases.

Although the problem begins at a local level, it becomes national in scope when noncustodial parents move across State lines. Federal guidelines must be mandated.

An existing Federal program provides for full collection of back child support for the IRS. This program is applicable to both AFDC and non-AFDC cases. After all resources within the State have been exhausted, a case can be certified and the IRS acts as a collection agency.

Collection can be enforced against the absent parent's income or assets. The IRS has the authority to attach wages, put a lien on property, and attach bank accounts, or an installment agreement for payment can be secured.

Each State has the option to adopt this program. According to the office of the IRS liaison for child support enforcement, during 1982, 160 cases were certified in the United States.

Of these cases, 62 originated in Massachusetts, 1 in the State of Michigan. Without Federal mandates, options such as this are ignored and unused by the majority of enforcement agencies across the country.

It is the responsibility of the Federal Government to provide definitive guidelines that will insure effective enforcement of court-ordered support.

We have a system in our State, Michigan, and there is still room for improvement, but it is a start.

Income withholding policies must take into account assets, income producing properties and investments. Collection of past due support from State and Federal tax refunds must be applicable to both AFDC and non-AFDC cases.

Income from workmen's compensation cases, civil cases, and inheritance should be intercepted by a central agency until a distribution hearing can be held. This has been tried in certain countries and has been very effective. The central agency, the friend of the court, has the records and has the ability through computers to pull out these cases and act as an intercepting agency.

Past-due child support should be reported to credit agencies. While arrearages accumulate, the custodial parent's credit suffers and the absent parent's credit is not affected.

I strongly urge passage of these provisions which will be a step toward putting the financial responsibility of raising children back with the parents, where it righly belongs.

Chairman FORD. Mrs. Cooley.

STATEMENT OF WORTH K. COOLEY, PROJECT DIRECTOR, THE CHILDREN'S FOUNDATION

Ms. COOLEY. Thank you.

My name is Worth Cooley, and I work with the Children's Foundation, a national advocacy organization for children and families.

During our 14 years of existence, the Children's Foundation has concentrated on the problems of low-income children and has always been particularly concerned about those who are being raised by women alone, a group currently estimated to include, at some point during childhood, approximately half of this country's children.

We see a direct and urgent connection between the Nation's divorce rate, the increasing feminization of poverty, and the present alarming weaknesses in the child support enforcement system.

A frequently cited California study of 3,000 divorces found that 1 year after divorce, the average man's standard of living rose by 42 percent, while that of his former wife and their children fell by 73 percent.

The runaway pappy at whom earlier decades' child support legislation was aimed is no longer the unmarried, unemployed father whose children ended up on welfare. He is now the former husband and father, frequently middle class or better, who simply leaves his financial obligation to his children behind.

It appears that millions of American fathers somehow include the continuing needs of their children among things left behind when a marriage dissolves, rather like old furniture.

General public awareness of the child support problem does appear to have been increasing in recent months, although we feel that there is still a common tendency to view child support difficulties as individual domestic issues rather than as a national social and economic issue which places an unprecedented proportion of America's population at risk of poverty.

About one-half of our children living in female-headed households now live in poverty. All children are entitled to the financial support of both parents. Although specific statistics vary, there is general agreement that very few children receive the financial support due from their fathers once these fathers leave the household.

Census Bureau figures show that in 1981, only about one-third of 8.4 million American women raising children alone received any payment from the fathers of these children.

Thus, the economic burden of caring for the children falls on their mothers, whose earning power is less than 60 percent of the average father's, or on the taxpayer in the form of welfare payments.

These millions of children, and their mothers, already struggling with the emotional and social traumas associated with divorce are thus subject to often severe economic privation as well. Formerly middle-class families can be plunged into poverty almost overnight when child support goes unpaid.

Several specific categories of reasons are common when the question of why a national problem of such huge dimension and such grave consequences exists.

Economic hardship, certainly no stranger to many of us in recent years, is one of the most commonly cited. Research over the last decade, however, agrees on several points:

Fathers can pay child support; fathers can usually pay more than courts order; of fathers who do pay, many do so irregularly and incompletely, creating continual economic chaos in the children's household; between one-fourth and one-third of fathers never make the first court-ordered payment.

Another commonly cited defense for nonpayment seeks to connect child support with custody and visitation issues. We would like to point out that a child's needs for food, clothing, and shelter continue regardless of the parents' ability to agree on custody and visitation.

Fathers say that the needs of their new families come first. Divorced men do remarry more often and more quickly than divorced mothers with children. A father's new responsibilities, however, do not erase ones he already had to children he already had.

The fact is that fathers don't pay child support because they don't have to. In its present form at all levels, the child support enforcement system looks to the mother to pursue enforcement of child support obligations.

Lacking time, money, and information necessary to address the system in its present complexity, millions of mothers simply give up. The system thus supports the nonpaying father's attitude that it is really easier just to let the matter go.

We strongly support all legislative proposals seeking automatic payroll deduction of child support, most especially those which do not wait for a delinquency to occur. If paying our income taxes were functionally optional, we believe that many of us would, pay period after pay period, have numerous wonderful reasons why we simply couldn't pay those taxes right now.

The Treasury Department would quickly find itself in rather the same position as millions of custodial mothers do now.

We further believe that payroll deduction of child support would significantly decrease the problem of collecting support when the parents reside in different States.

We also support the development of State clearinghouses through which child support payments are made. In addition to monitoring compliance and presumably setting enforcement mechanisms into action immediately when a delinquency occurs, such systems would serve to decrease the ongoing emotional conflict between former spouses that can so easily occur when angry people must exchange money.

We are concerned that disbursements of funds received be made in a timely manner and that custodial parents be informed, when problems occur, as to what enforcement remedies will be pursued.

We feel that any fees for enforcement services should be assessed against the obligated parent rather than the custodial parent. Any investment on the part of the custodial parent in getting a court order enforced should be nominal at most.

We support proposals to include requirements that obligated parents provide health insurance when such is available through their employer, but feel that the custodial parent should have the option of providing such insurance if her employment-related coverage is more convenient or otherwise preferable.

We support proposals that require administrative procedures to establish and enforce support obligations, collection of past-due support from Federal and State tax refunds, and liens against property for past-due support.

We feel that requiring States to report past-due support to consumer credit networks is an excellent policy, one likely to have definite impact on the self-interest motivations of fathers, particularly those of middle class and better economic status, to keep their payments current.

We feel that establishment of an objective standard for child support is a worthy goal but one which needs significant further study, given the complexity of this issue.

We would support a national commission to address this issue with the goal of creating a fair and objective formula that balances the standards of living of all the parties.

Finally, we strongly support clear statements of purpose which affirm the right of all children, not just those receiving AFDC funds, to the financial support of absent parents.

As the child support enforcement system currently exists, the nonwelfare child becomes too easily nobody's baby. Nonwelfare mothers report a generally unresponsive attitude on the part of IV-D agencies; sometimes fees for such services would be comparable to those involved in hiring a private attorney.

There is a sort of a welfare Mercedes myth around, and an IV-D official was reported to have said at a meeting last year that he didn't know where all those middle-class women got off driving up to the State agencies in their Mercedes Benzes, trying to rip the State off for free legal services.

If children were mugged on the streets, we would not as a society look to their mothers to hunt down the muggers and prosecute them at their own expense.

Nor would we require our police to inquire first as to whether the children were receiving welfare funds before even taking a report on this hypothetical mugging.

Nonpayment of child support, given its impact on a child's daily life, might be viewed as a sort of financial mugging by an absent parent. Our legislation should clearly reflect a recognition of how gravely serious a matter child support payments are.

I would like to step away briefly at this point from my role with the Children's Foundation and into my role as a mother with a headful of memories of my own and my friends' experiences with the court and IV-D systems.

I don't know what Federal legislation might address the problem of what judges in child support cases actually do in courtrooms, but I do know that the first risk mothers seem to face upon going to court for enforcement of a support order is that the amount of the support may well be reduced as an incentive to the father to pay. This seems particularly true in interstate cases.

If a man owed IRS a given amount of money, say $200, and were so remiss in paying it that he found himself in court, I think it is very unlikely indeed that the presiding judge would decide that maybe he should just pay $150 since he didn't seem to be paying what he owes.

Indeed, penalties would be added. I feel strongly that some system should exist to make judges accountable for what happens to our children's money. We non-AFDC mothers are out here trying to raise our kids with some semblance of nonpoverty orientation, and we can't do that consistently without support from the system that is not there now.

It also seems, based on repeated and familiar stories from mothers who have gone into court time after time, at repeated economic and emotional expense, that judges are all too often extraordinarily lenient with a nonpaying father.

Continuing a child support hearing for months in order to give the father a chance to make payments gives the children and their mom several chances to be evicted or have the telephone disconnected or the lights turned off.

However fine our laws may become regarding child support, unless they include a change in the amount of discretion individual judges have in these cases, our children will continue to face poverty and all its negative consequences as surely as they face chicken pox and runny noses.

Thank you.

Mrs. KENNELLY. I thank you.

I think it was Mrs. Johnston that made the point of thanking us for letting you be here. Don't. You are the lobbyists for this bill. I serve on the Ways and Means Committee, and nobody apologizes. They come in and they know what they want. They ask for what they want, and they work for what they want.

You are here today with us, Mr. Campbell has a new bill in since yesterday, and I have had one in, we are really looking for direction, and people who have experienced this life you have.

Also, you people have people behind you, this is just a beginning. All of it is building up. If it is just dropped after these hearings, then nothing happens. I thank you for coming. I urge you, don't stop today. Monitor us, and watch us and help us, so we get a piece of legislation put together, and on the floor.

It is a long fight. Don't apologize. Your testimony was strong, but that is fine. This is a tough subject.

Ms. COOLEY. I know.

Mrs. KENNELLY. You emphasized exactly what the other panel of women did. We are here to bring something together that will work. I thank you for staying out the day so you could testify.

Mr. CAMPBELL. Madam Chairman, let me apologize. I was called away from the hearings a little earlier, and I did not get to hear your testimony. I do apologize for not being here, but let me tag on to what Mrs. Kennelly has said.

It is a tough subject. It is going to take a lot of long, hard work to get the legislation through at the Federal level, but it is also going to take a lot of work at the State level to make them aware of the responsibilities that exist there, to try to get the job done, to get good people in the jobs, and topflight effort being put forth at the State level. I am not saying there are not good people in the job, but we have to make sure that this is a top priority. The battle is going to be fought at two levels.

I would urge you to continue that State fight.

Mrs. KENNELLY. Cesar A. Perales; Irwin Brooks; James L. Federspiel.

I thank you for your patience.

STATEMENT OF IRWIN BROOKS, ASSISTANT COMMISSIONER, OFFICE OF INCOME SUPPORT, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

Mr. BROOKS. I am assistant commissioner of the Human Resources Administration of the city of New York.

I submitted written testimony, which I hope you will accept for the record. I would like to make some additional comments. I think we have all heard today about the immense problem from the point of view of mothers, custodial parents, State administrators, district attorneys, and judges. We are all aware of the problems that exist, and I want to caution the policymakers that the problem is growing.

The recent figures from the census department indicate the magnitude of the problem in terms of numbers. We have tremendous caseload in the city of New York and we try to deal with it in the best way we possibly can.

The mayor is completely behind us in our efforts.

I would like to divide the problem into two areas. On one hand, we have a problem with the judiciary. Mr. Campbell is correct, and that has to be addressed on the State level.

The other problem we have is the enforcement of those orders that have been issued by the courts, and I think that if we could lick that problem, we would pretty much gain in terms of helping the custodial parent.

Unfortunately, I think the administration, after hearing the Secretary's testimony, is geared to reducing the Federal outlay of funds. I did not really hear a strong commitment in terms of aiding the nonwelfare population.

In New York City, the average payment for a nonwelfare family is $180 a month. That is borderline, and if we don't take care of those hard-working women who are trying to keep their heads above water, they will be on the public assistance roll, and be a lot more costly to the taxpayers. I would like to see some additional efforts made for the nonwelfare population.

Back in 1976, when we first started this program, we were collecting about $12 million in New York City for the Aid for Dependent Children population. I am proud to tell you that this past fiscal year, we wound up with $23 million.

In 1977, it was New York City who came to the administration and requested and suggested the tax intercept program. Simultaneously, we did it with the State legislature. It has taken us 5 years to get it enacted, and it is working.

This past year, we had the State legislature enact the legislation, and I am proud to report that already, we have received $1.6 million with more to come on tax intercepts from the State.

From the Federal IRS we have achieved a $3.5 million in collections. I would like to see this extended to the nonwelfare population. We have created a two-tiered approach here.

On the one hand, we are concerned about debt recovery, and on the other hand, we are leaving out the population that we really should support to make sure that they will not become dependents of Government.

Some of the issues raised here today such as visitation and other issues that relate to support have to remain separate. There is an obligation to support the children. If we start on that premise, and we all agree that our children should be supported, then we could come up with a system that would help us reach that goal.

We hear of support orders being ignored, and we hear of a lot of processing of paperwork from payments on a weekly basis. We process 3,600 payments a day in New York City for welfare and nonwelfare people. We try to get the checks out for nonwelfare families within a 48-hour period and we are successful in most cases.

However, I would like to suggest that right up front, when an order is issued from a court of proper jurisdiction, that that order be a withholding similar to withholding for taxes.

We withhold taxes for the purposes of supporting our Government, and I think we should withhold from wages also for the support of our children.

By doing something of this sort, and I think that it is going to take additional study, but I think that such a system will certainly cut the cost of Government. One further suggestion is that these payments be made directly from the employer to the custodial parent, thereby avoiding a lot of administrative processing, and also assuring that payments are received on a timely basis.

There are some localities that take 3 to 4 weeks before they get a payment out, and the family struggles within that period of time to maintain themselves.

I would like to see this study, and listening to Congressman Biaggi here this morning, who recommends a commission, perhaps we should look at that in terms of studying this problem a little more deeply. I think the Congressman also expressed a very strong desire to help the nonwelfare people and I support that wholeheartedly. I think that Congress should enact legislation or recognize that there is a child support problem and declare August as Child Support Month.

Let's get more publicity about this. I think in the last few weeks we have seen a lot of this going on.

You are the policymakers, and we are the administrators. We have to administer the laws that you enact, and by working together, we certainly can come up with some viable means to really make this a priority, and a successful one, to help all the children of this country.

Thank you.

[The prepared statement follows:]

STATEMENT OF IRWIN BROOKS, ASSISTANT COMMISSIONER, OFFICE OF INCOME SUPPORT, HUMAN RESOURCES ADMINISTRATION, NEW YORK CITY

I am Irwin Brooks, Assistant Commissioner of Income Support of the Human Resources Administration of the City of New York. I am pleased to appear before you today to discuss child support enforcement in New York City.

Just last week, the Census Bureau reported that more than half of the American men legally obligated to pay alimony or child support are in arrears on all or part of their payments. Only 46.7 percent of about 4 million women who were supposed to receive child support payments in 1981 received the correct amounts. Clearly, Federal legislation is needed to strengthen our existing child support programs, to extend enforcement tools used for Aid to Dependent Children (ADC) cases to all support cases and to provide better methods for enforcement of support orders for all child support cases. Such initiatives are vital if we are to help mothers and children collect the nearly $4.5 billion that goes unpaid annually by fathers under court orders or legal agreement.

New York City is committed to an effective and efficient child support program. We are currently collecting child support payments for 340,000 public assistance (ADC) families and an additional 50,000 non-public assistance families. The following data provides a picture of the size of our program:

We receive 60,000 new ADC cases, locate 28,000 absent parents and refer 17,000 cases to court in a year.

We have 41,000 court appearances which result in 5,400 paternity orders, 6,000 support orders, and, additionally, 3,600 cases are referred to court for enforcement each year.

We provide support-related services, other than collection, to 36,000 non-ADC cases annually.

New York City, like other large urban areas, faces many obstacles to increasing child support collections. The size, density, and mobility or our population make it difficult to locate many absent parents. And, we have a high proportion of parents who are too impoverished to pay support. Yet, since 1975, we have made significant gains in our program. Collections for our public assistance families have increased from $12 million in fiscal year 1976 to our current figure of $23 million in fiscal year 1983. An additional $29 billion is collected and processed annually for non-public assistance families.

As we plan for the future progress of the Child Support Enforcement Program, it is essential to focus on the needs of the child. When we speak about children, we should be talking about all children, not only those supported by public assistance. Under current law, better mechanisms are available for the enforcement of ADC support orders than are available to non-public assistance families such as more stringent payroll deduction provisions, IRS and State Tax Intercept Programs and legal support in handling ADC cases. Yet, other custodial parents who are struggling to support their children need access to the same enforcement mechanisms. If we do not effectively assist these families in collecting support from absent parents, they too may come to depend upon government financial support.

HRA is pleased that much of the proposed legislation—H.R. 2374, H.R. 3354 and H.R. 926—which you have asked us to address today, seek to create stronger and more effective means of child support enforcement for both public assistance and non-public assistance families. We have tried several of these proposed enforcement mechanisms in New York and I would like to discuss some of these proposals in light of the experience in New York City.

TAX REFUND INTERCEPT

HRA supports expanding the collection of past-due support from Federal tax refunds for public assistance families to all families. This is one of the most successful methods of collecting past due child support. In New York, such tax set-offs for public assistance families have resulted in significant collections. For example, we collected $3 million in New York City from Federal income tax refunds for tax year 1981. For families that are not on public assistance, where a higher proportion of absent parents are actually employed, tax set-offs should prove particularly successful.

In addition, New York State has begun a tax refund intercept program, which is in its first year of operation. It has already generated $1.6 million in support collections for New York City. Therefore, we support federal legislation to expand the Federal tax set-off procedure to non-ADC families and to create a similar mechanism for State tax refunds.

MANDATORY WAGE WITHHOLDING

HRA strongly supports a system of mandatory wage withholding for the collection of child support obligations for both public assistance and non-public assistance families. In New York, we have an income deduction system which is implemented after a delinquency in support payments. In cases where we have such orders, collections increased by 50 percent. In public assistance cases, the deduction is mandatory but is not made until the support payment arrears equal or exceed the total amount of monies payable in making a specified number of payments determined by the court in the support order. In non-public assistance cases, the court may order an income deduction where the respondent is three payments delinquent and has not proved an inability to make payments. However, our experience has shown that courts are reluctant to require income deduction orders in non-public assistance cases.

Mandatory wage withholding should provide an even more effective system for child support collection, since withholding could begin at the inception of the support obligation rather than after a delinquency in payments. This will guarantee a steady stream of needed funds to support children in all families with absent parents.

One concern we have with expanded wage withholding is the associated administrative costs. In order to keep administrative costs as low as possible, we recommend that employers forward payments withheld from wages directly to custodial parents who are not receiving public assistance. This will also avoid delays in making funds available to custodial parents. In addition, we recommend that any proposed legislation for withholding wages conform with the Consumer Credit Protection Act's limitations on garnishment of wages, to insure protection for the absent parent.

We also support the proposals that require the withholding of child support from income other than wages. This is particularly important where absent parents have sought to avoid fulfilling child support obligations by claiming no wage earnings while deriving income from sources other than wages. One approach is the mandatory posting of a bond for child support or requiring insurance for such payments.

CLEARINGHOUSE

While we favor providing more effective enforcement mechanisms for all child support cases such as the tax intercept and mandatory wage withholding, we would not like to see the creation of new and costly administrative structures for support collection. H.R. 2374, the Child Support Enforcement Act of 1983, would require each State to maintain a child supprt clearinghouse into which all child support payments would be paid, recorded and forwarded. We oppose this provision because it would create an unnecessary fiscal and administrative burden for local child support agencies. In addition to our 340,000 public assistance cases, New York City currently processes 50,000 non-ADC cases at a cost of $1.3 million per year. Expansion of this service to include all child support cases would result in a significant increase in administrative costs.

The legislation recommends the imposition of fees for processing non-ADC cases. We do not believe that fees would provide an adequate source of funds for such a clearinghouse. Ultimately, support payments would be reduced to reflect these fees. In New York City, the average monthly payment for a family not on public assistance is $180. Any reduction in the amount of a payment could force a family on to public assistance.

In the alternative, greater reliance should be placed on the use of the payroll deduction orders or mandatory wage withholding, with payments forwarded directly to the non-public assistance custodial parents. Therefore, we recommend that H.R. 3354, The National Child Support Enforcement Act, which provides for mandatory wage withholding, be amended to allow direct payments by the employer to the custodial parent not on public assistance.

WAGE INFORMATION

HRA supports legislation to require States to collect individual wage information and provide access to such information for the purpose of child support enforcement. In New York, wage information is collected by the State Department of Taxation and Finance through the Wage Reporting System (WRS). We strongly support expanding the use of WRS to non-public assistance cases where it is evern more likely that the absent parents are actually employed.

H.R. 926, the Reducing Error in Income Support Programs Act of 1983, would require States to collect and retain wage information within their Departments of Labor in order to qualify for Federal assistance for unemployment compensation. This would result in a duplicate system for a state such as New York, which has its wage reporting system within the tax department. Thus, we reommend that this legislation be amended to allow states flexibility in locating its wage reporting system.

In addition, we recommend that States be authorized to exchange wage information in order to collect support from parents employed outside the State in which dependent children reside. Our experience has shown that some States place a low priority on out-of-state cases. Facilitating the exchange of information among States is an important step towards aiding in our support collection efforts. We support the development of projects to aid the collection and exchange of information among states.

MILITARY

It is often difficult to obtain needed information from the military to facilitate collections. We are required to contact each individual installation when attempting to locate an absent parent in the service. As a result, we must wait for requests to be channeled through to the proper responsible party, and wait an inordinate amount of time for a response which may not be forthcoming. We recommend that a central office within the Department of Defense be available for assisting child support agencies. Names would be submitted and the central office could locate the appropriate parties.

MEDICAL INSURANCE

In New York, our Family Court Act provides that when a social services official is the petitioner, any order of support must require the absent parent to exercise an option for additonal health insurance coverage where his employer or organization will pay a substantial portion of the premium. At a time of increasing medical costs, requiring absent parents to provide health insurance where it is available at a reasonable cost, aids in keeping families off both ADC and Medicaid. We support federal legislation which would require states to seek medical support for children on ADC. In additon, we recommend that such health insurance coverage be required for non-public assistance families as well.

QUASIJUDICAL AND ADMINISTRATIVE PROCEDURES

It has been the experience of some states that quasijudicial or administrative procedures result in higher collections and lower costs. A number of the legislative proposals we are addressing today would require States to develop quaijudicial or administrative procedures to establish and enforce support obligations. This would be very difficult to implement in New York, where jurisdiction over support and paternity issues is placed in the Family Court by our State Constitution. While we favor expanded use of hearing officers within our Family Court, we believe that removing support cases from the Court system entirely is a complicated issue. Therefore, we recommend that any legislative directive on establishing administrative procedures allow a state the flexibility to fashion a procedure within the framework of existing State Constitutional mandates.

REIMBURSEMENT FOR ADMINISTRATIVE COSTS AND INCENTIVE PAYMENTS

We are pleased that Congress rejected, earlier this year, the President's proposal to restructure the IV-D program by eliminating both reimbursement of administrative expenses and incentive payments based upon actual support collections. Unfortunately, the Administration is, again, seeking to eliminate the current IV-D matching grant and require States to fund their programs instead by applying administrative expenses against ADC child support collections. While our child support collections have increased over the years, continued Federal reimbursement is essential to the future success of our program.

Both the Administration's current proposal and Congressman Campbell's proposal to restructure incentive payments, would result in a substantial reduction of federal funds for our program. We strongly oppose these proposals. Incentive payments were created to encourage effective programs and they have worked. While we are making progress each year, much more has yet to be accomplished. If reimbursement of administrative expenses and incentives are withdrawn or further reduced, it would certainly inhibit the momentum and growth we have all experienced. The benefits and accomplishments derived from an effective IV-D program cannot be measured by dollars collected alone. These also include the establishment of paternity, the Parent Locator Service and the enforcement of parental responsibility for child support.

Thank you for the opportunity to share our concerns on child support enforcement and our support for legislation to insure that children be financially supported by their parents. New York City has given a high priority to its Child Support Program and is committed to further improving it with your help and support. Thank you.

STATEMENT OF JAMES L. FEDERSPIEL, COORDINATOR OF CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF SOCIAL SERVICES, GENESEE COUNTY, N.Y.

Mr. **Federspiel**. I am James Federspiel.

Mr. **Conable**. Madam Chairman, I just arrived. Mr. Federspiel is from my hometown. I am pleased to see him here and attest to the fact that we have a sophisticated and knowledgeable group of social service workers in our area. It is an area typical of many parts of the country, and the message that he is able to bring to us here today, I am sure will reflect a reality for a large part of the United States.

It is important that we hear from people like Mr. Federspiel to get some understanding of how it is out there in the trenches.

I welcome you here today.

I am sorry I was not able to be here earlier, but I am on another assignment, the Ethics Committee.

Mr. **Federspiel**. Thank you very much.

I am James Federspiel, and I do work for the Department of Social Services, Child Support Enforcement Unit, in the County of Genesee, a rather small county.

I do work right on the frontlines and have done so for the last 7½ years. I am pleased to report that we do collect for ADF and non-ADC.

As a point of interest, last year, our effectiveness was for every dollar spent for AFDC, we brought back something like $1.34. That was not especially good, but you cannot always control those types of cases.

On the non-ADC cases, for every dollar we spent, we brought back in $10.

That was one of the better collection efforts in the State of New York last year.

As recently as yesterday, I was speaking with women who wanted child support, and, namely, to buy groceries.

I come from a family, and my father was an absent parent. I take it very much to heart when I run our program. We have a county of approximately 40,000 people, if that is correct?

Mr. **Conable**. A little bit bigger than that.

Mr. **Federspiel**. We have managed to collect in excess of $1 million of child support each year. The Child Support Enforcement Act of 1973, I did break it down, and the purpose, and put the preamble in there. The addition of this section would serve as notice, and I emphasize all States and districts that title IV(d) should extend to all children in need of support regardless of whether or not they are recipients of public assistance.

Approximately 7 years ago, I attended a State meeting, and one of the things we did is try and define a purpose for child support. It was amazingly similar. However, the general consensus of opinion among all the persons that were there was that it was to reduce the public expenditures.

I think they meant the same thing. Even back then, they were mostly concerned with the ADC clients only.

Financial incentives for balanced and efficient State programs: More money is always helpful. I think we would have trouble operating with less than 70 percent. What we really need is stronger legislation. We need better tools. We need the tools that we are presently using in New York State to extend across all districts in the continental United States and other territories where we are collecting child support.

I am talking deduction orders. We have had them in New York State. Well, I don't know how long they have been in effect. I have been utilizing them for 7½ years. They are most effective.

We probably have 60 percent of the money that we take in come in wage deduction orders. We collect them against unemployment insurance benefits.

Does it cause a hardship? I am not quite sure; but in New York State there is a law that states that if a person has a change of circumstances, he should apply to the courts for relief.

These absent fathers, if they find it is an undue burden to pay that much out of their unemployment insurance benefits, always have access to the courts for this purpose.

In our area, they do utilize this.

I think that possibly I should not go into too much more on the financial incentives. Locally, we know how much money we have, and we are able to work with that money.

As I said before, the tools are a major benefit, wage deduction orders and the other tax offsets that we have had. The money situation is best handled on a state-by-state basis, which brings forward one strong feeling I have.

I think that the enforcement program should basically be handled on a State level.

The Federal budget is on, I believe it is a November-to-November basis. Our State budget is on an April-to-April, and we operate on a January-to-January basis. And by the time we get through with three different methods of approving money, it gets rather confusing.

You make laws on a Federal basis. They get down to a statewide level, and then they have to go one step further in New York State. They are handled on a county-wide basis, and they get a little watered down by the time they get there.

There is money approved for certain things. We can have a sufficient staff with the funding that we have now. However, we have to convince the county legislatures. There are a lot of county offices that don't receive any reimbursement whatsoever, and there is a great amount of animosity toward staffing us, because they are scared of Federal programs and think the money will drop off for these entirely. If it were handled on a statewide level, I think it would be much more efficient.

Collection of past-due support from Federal tax refunds: This is a much-needed section. I am talking about the non-ADC.

There should be a hold safe provision added for local distribution, due to distribution of funds, where parties have made private agreements without notification to courts or enforcement units.

Petitioners or recipients of offset funds must be responsible for refund of moneys received when a private agreement negated the offset.

We handle a lot of non-ADC clients. We take the initiative in a great number of these cases. We work hard and send out letters and make telephone calls. We send out summonses, and file violations with the court, only to find out later that there was a little private agreement made, money passed under the table.

It seems as though they had contact with their families. Occasionally there are little agreements made, and they have failed to tell us about them, and we look ridiculous.

I am a little bit concerned about this on the non-ADC tax offset.

It is well talked about today that there are other methods which we must look into. Maybe they should be reduced to judgment before they are certified. At the very least, they must be reduced to court-ordered arrears and instructions should be given to the clients before anything is certified for the collection.

It is, however, much needed. I have several clients, and a good number of lawyers in Genesee County, who are continually calling, and heard about the tax offsets, and they wonder if it applies to their clients, and, yes, there has been a program in the past with IRS.

It has, however, been so cumbersome that Genesee County has never certified a case for the other type of IRS collection.

While we are talking about the tax offsets, there is one negative aspect. We have used it for 2 years now, and, last year, we had quite a bit of success with it. We have found that some clients simply quit paying, and they rely on being offset the following year.

We had a person call up from out of State and said, how come you have not sent us any money? He said, oh, they are taking it out of my taxes. He said every year I am just going to pay, and they will take it right out of my taxes. This creates quite a problem. A lot of times these families could be off ADC.

What happens, the money does not come in and the person has to go on public assistance, and the money is owed to the department through an assignment.

They don't get the money until it is paid. It is a sad situation, and that is one of the situations that we have to keep in mind.

Improved enforcement techniques, withholding from wages, employers being permitted to cover the cost of withholding, is long overdue and has been a longstanding point of contention for years with special regard to smaller employers.

We have to keep this in mind; that it does cost the employer an awful lot of money. If we give them the small tool, if they are allowed to recover the cost, I think it will be much more effective.

We have a small number of smaller employers that withhold money. We have to constantly remind them to send it in to us. There are small companies that employ three, four, or five people.

It is a costly situation, and if they can recover some money, it will help.

Reporting of past-due support to credit agencies: The requirement that States would be required to report to consumer credit networks, should be helpful. Many absent parents have a habit of utilizing credit for purchases and maintaining the payments to protect their credit even before meeting their support obligation.

I have been in court a good number of times, especially with clients who have received large numbers of remuneration from any number of different sources. It is usually compensation or something, but they will get paid something like $2,000, $3,000, $4,000, $5,000 in one fell-swoop, and not a penny comes through to us.

We work hard to get it into court and by the time we get into court, the money is gone, and they will be asked by the judge, well, what did you do with the money? Well, I spent it; I had to pay my bills.

The judge will always say, don't you regard the payment of child support as a bill?

It is amazing the number of people that don't, even though they are faced with incarceration for not paying.

Incarceration is seldom done. Perhaps we better talk about incarceration for nonpayment of support real quick. It can be productive and counterproductive.

We had a case, an interstate, I believe it was, with the State of North Carolina, and it was a non-ADC case.

We sent them a good number of letters regarding nonpayment by a person, and they finally incarcerated this person for a period of 1 year to hard labor.

Much to our surprise, he actually served it right down to the last day. There was no good time. We thought this was rather harsh, but the sad part——

Mrs. **Kennelly**. I did not get that. He actually served it—my mind wandered.

Mr. **Federspiel**. The person actually served 1 year at hard labor in the State, I believe, of North Carolina for nonpayment of child support, where our client was in New York State and not on public assistance.

After he got out of jail, they held another hearing and they dismissed all his arrearages because he spent so much time working for the State. That was a cruel twist of fate.

On the pending legislation, I would like to say we do need more uniform methods. Some States enforce orders to support only upon complaint. Others do it automatically. Some enforce AFDC only and others do AFDC and non-AFDC. Some areas collect support money and do enforcement combined. Others are separate functions with minimal communication with each other.

Enforcement is handled by State or county attorneys, district attorneys or attorneys employed for enforcement units or social service districts. At least the Federal office of child support enforcement should publish, supply and maintain for State and local agencies a current listing of agencies or offices responsible for enforcement.

Our particular agency in Genesee County has experienced a frustrating situation of repeatedly writing to an agency and receiving no action. Only through later discovery, enforcement was handled by another agency and no referral had been undertaken.

All too frequently other States and districts only seek to restart payments and do little or nothing for repayment of arrearages. Pursuit of arrearages should be as aggressive as for current support.

Establishment of paternity with special attention to armed forces personnel: With new scientific testing available, the establishment of paternity has taken a dramatic turn. Establishment of paternity is now a practical means of obtaining support from responsible absent parents.

Obtaining jurisdiction or cooperation from members of the armed services is extremely difficult. The transient nature of these persons frequently removes them from State-to-State into foreign countries. If paternity could be established, support is readily available through existing procedures with the armed services.

What I am talking about, in New York State, before we can establish paternity that person must be physically in the court in New York State. This is an extremely large area.

I think we have to wonder, is a dependent with an absent parent better than a dependent with no parent, to whit, a father. Before I came down, I——

Mrs. **Kennelly**. What was that again? I did not get that.

Mr. **Federspiel**. Is a dependent with an absent parent better than a dependent with no parent, to whit, a father? In other words, we have to go one step further on establishing paternity especially with regard to the armed services. We have got to make them available. It is not a small problem.

I counted yesterday 198 cases that we have where we established paternity and we do not have an order of support. In orders where we do have orders of support, the statistics are quite startling. This is in a small county where we only have a caseload of approximately 1,100 people.

In non-AFDC cases, we have active orders with 67 persons and inactive 22. They are inactive for some reason. They have reunited with their husband, or the absent parent is unemployed and the order is suspended for some reason. These are all paternity cases.

In our AFDC cases, we have active 77 cases paying and inactive 52. That is a total of 218 cases out of slightly over 1,000 that we have established paternity and they have an obligation to pay support. That is quite startling in a small county that is situated between Rochester, N.Y., and Buffalo.

We consider ourselves rural. However, a good number of the people that we take care of and support have moved in from New York City, Kansas City, California. They are going to Florida.

Interstate is where it is really at. We have got to become much more uniform.

That is the end of my testimony, and I do thank you.

Mrs. **Kennelly**. Fine. Thank you, sir.

[The prepared statement follows:]

STATEMENT OF JAMES L. FEDERSPIEL, COORDINATOR, CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF SOCIAL SERVICES, GENESEE COUNTY, N.Y.

OVERVIEW

Section 1—Title

"Child Support Enforcement Act of 1983," Honorable Carroll A. Campbell, Jr. (R., S.C.)

Section 2—Purpose

The addition of this Section would serve as notice to "all" States and districts that Title IV-D should extend to "all" children in need of support regardless of whether or not they are recipients of Public Assistance.

Section 3—Financial incentives for balanced and efficient State programs

Incentives appear to change rapidly at this stage of legislation, and are best commented upon by a "State Level" representative. Sufficient money must be provided to maintain or incerase current levels of enforcement.

Section 4—Collection of past due support from Federal tax refunds

This is a much needed Section. However, there should be a "Hold Safe" provision added for local districts that do distribution of funds where parties have made "private agreements" without notification to Courts or Enforcement Units. Petitioners or recipients of offset funds must be "responsible" for refund of monies received when "private agreement" negated the offset.

Section 5—Improved enforcement techniques

(1) Withholding from wages.—Employers being permitted to cover the cost of withholding is long overdue, and has been a long standing point of contention for years, with special regard to smaller employers.

(5) Reporting of past due support to credit agencies.—The requirement that states would be "required" to report to consumer credit networks should be helpful. Many absent parents have a habit of utilizing credit for purchases and maintaining the payments to "protect their credit"—even before meeting their support obligation.

End of comment on Honorable Carroll A. Campbell, Jr. (R., S.C.) Proposal.

No comment on H.R. 2374; The Child Support Enforcement Improvements Act of 1983, and H.R. 926: The Reducing Error In Income Support Programs Act of 1983. (Those provisions pertaining to the Child Support Enforcement program), and H.R. 3354: The National Child Support Enforcement Act, as witness has been unable to obtain and peruse then wiithin the time constraints.

Additional testimony

Any present legislation should also consider the following:

(1) Interstate of U.R.E.S.A. CASES.—More uniform methods of enforcement must be established. Some States enforce Orders of Support only upon complaint; others automatically. Some enforce A.F.D.C. only; others do A.F.D.C. and Non-A.F.D.C. Some areas collect support money and do enforcement combined. Others are separate functions with minimal communication with each other. Enforcement is handled by State or County attorneys, District Attorneys, or attorneys employed for Enforcement Units or Social Services Districts. At the least, the "Federal Office of Child Support Enforcement" should publish, supply and maintain, for "local and State agencies, a current listing of agencies or offices responsible for enforcement. Our particular agency in Genesee County has experienced the frustrating situation of repeatedly writing to an agency and receiving no action—only to later discover "enforcement" was handled by another agency, and no referral had been undertaken. All too frequently other States and districts only seek to restart payments and do little or nothing for repayment of arrearages. Pursuit of arrearages should be as "aggressive" as "current support".

(2) Establishment of paternity with special attention to Armed Forces personnel.—With new scientific testing available, the establishment of paternity has taken a dramatic turn. Establishment of paternity is now a practical means of obtaining support from a responsible "Absent Parent". Obtaining "jurisdiction" or cooperation from members of the Armed Services, is extremely difficult. The transient nature of these persons frequently removes them from State to State and to foreign countries. If paternity can be established, support is readily available through existing procedures with the Armed Services.

Mrs. KENNELLY. Mr. Brooks, did you put testimony on the record?

Mr. BROOKS. Yes, I did.

Mrs. KENNELLY. I could not find mine. Make sure we have the small area view versus the big city view.

Mr. BROOKS. That is one of the issues that really concerns me when the administration is talking about penalties and all sorts of things against the State.

Here we have Genesee County with 1,100 cases and New York City with 340,000 AFDC cases. We have 50,000 support orders in non-AFDC cases, and 40,000 support orders for AFDC cases. The demographics are completely different.

Two-thirds of our caseload are out of wedlock cases. We have to spend money to locate the individuals and when we do, we bring them into court to establish paternity and then we find out in court that they have no means of support.

It is a large expense, yet the congressional intent at the outset of the program was to establish paternity. Now in Genesee County, I am sure that their paternity caseload is completely different. In New York State, it is 40 percent and in New York City, it is 67 percent.

The demographics are completely different. Our clientele have plenty of places to hide.

I would assume that in Genesee County that they are there. They are exposed and can't run too far.

There are clearly differences and I am concerned with the administration's desire to try to levy penalties against States when, in fact, there is such a diverse type of caseload.

I think that the committee should consider where they want this program to go. We are at a crossroads.

We have made good progress in the AFDC area. Should we continue to establish paternity? Should we continue to maintain a strong program that is going to keep people off the public assistance rolls? These are all decisions that have to be made, yet the only thing that the program is measured on today is how much money has been collected for AFDC.

I think that is a serious defect. We should have it one way or the other. If it is AFDC we are concerned about, then let's get that direction and go that way. I think it should be much more than that.

Mrs. KENNELLY. Mr. Brooks, one last question for myself. Did you just comment on Secretary Heckler's comment that the level payment go from 70 to 60? How would that affect an area like New York?

Mr. BROOKS. I think it would seriously affect us. Although our fiscal situation has gotten better in this past fiscal year, we do a lot of things in the city to enforce these court orders. We have six policemen on our payroll going out executing warrants to make sure that people appear in court.

We do take seriously the non-AFDC people. There are about 36,000 cases that we handle a year in services other than processing payments.

I think it would certainly create a deterrent to our continuing this momentum. This is not the time to restructure the program. I feel very strongly about it.

The momentum is there. Let's keep it going. At some future date, let's look for another formula, but this is not the time to do it.

Mrs. KENNELLY. Mr. Campbell.

Mr. CAMPBELL. Thank you, Madam Chairman.

I would be glad to defer to Mr. Conable if he has new questions.

Mr. CONABLE. Thank you. I have only one question of Mr. Federspiel.

Although my brother is a family court judge in the next county over, I am not familiar with the one in which you work. Regarding the New York practice on wage orders, does New York put them right up front or do you wait until there is some arrearage. What do you think about that?

Mr. **Federspiel**. Well, they are not right up front. They can come any one of several ways.

There is one on each order that comes through the family court. They are not necessarily included in Supreme Court orders.

They usually have a triggering clause in them that if a person misses as much support payments as is equal to two or three payments within a certain given period of time, it can be within 3 months or within 1 year that we are allowed to put the wage deduction order in after giving due notice to the client.

So, yes, we do have them.

Mr. **Conable**. But they are not put up front. When an effort is made to establish the first order of support, is the father counseled that he may voluntarily have a wage assignment if he wants? Is he encouraged to do it?

How do you feel about it generally? Do you think there ought to be any closeup formula that would get people quickly before they get too far in arrears?

Mr. **Federspiel**. Locally we do counsel the people and we do get a lot of voluntary compliance. People want to have it taken out of their wages and this is fine. I like it.

The other method is not too cumbersome because we don't have to go back to court again to establish a wage deduction order or get it into place.

However, there is one small problem with it. You then have arrearages. They have accrued and it is usually a month or two of arrearages, and if they are going to collect that, yes, they do have to go back to court if the person is not voluntary or we can't twist his arm to get the money from him.

But, yes, maybe it should be tightened up a little bit from what we have it right now without quite so long to trigger it.

Mr. **Conable**. Unless you have got such an order, you are pretty well dead in most cases, aren't you?

Mr. **Federspiel**. Yes, definitely.

Mr. **Brooks**. It is mandatory in New York State that the judge issue a deduction order with every support order. If the individual misses two or three payments, then it is executable by the agency that it is mandatory.

And, yes, we can lose 3 weeks to a month's arrearages, but then we pick it up with the tax intercept.

Mr. **Federspiel**. I would like to bring in one other point before I forget it here. The commissioner wanted me to say it.

I probably should be sitting at some other place further away from Mr. Brooks before I say this because it has to do with large urban areas.

Mr. **Brooks**. Say it.

Mr. **Federspiel**. I think New York State has got one of the better enforcement programs in the United States and it is certainly working for one-half of the State. One-half of the State is located in New York City.

They are trying and they have made great strides and progress. You can see it by reviewing the reports to the Governor every year.

However, I don't think New York State should be penalized by failure to get some special incentive from the Federal Government because we just have not been in place, because they could not collect enough money in New York City to meet the statistics.

If all of the smaller counties are complying and New York City does not collect enough, then the entire rest of the State would be penalized. That would be an unfair funding procedure for New York State.

Mr. BROOKS. I concur with that.

Mrs. KENNELLY. Well, I am a city girl.

Mr. Campbell.

Mr. CAMPBELL. Let me pursue a couple of other things. Mr. Brooks, one thing you said was that you are concerned that the administration's bill did not deal with the nonwelfare people.

Very specifically, I think every bill that we see before us is dealing with the nonwelfare or the non-AFDC person. I did not quite know where you were coming from on that one.

I wonder if you would clarify it.

Mr. BROOKS. Surely. When the Secretary was questioned about the non-AFDC population with regard to tax intercepts, for example, she kind of avoided that issue, and I feel very strongly about that.

Mr. CAMPBELL. Hers was on the Federal tax issue and only the Federal tax issue because of the question of jurisdiction generally at the Federal level going where there was not a payment from the Federal Government involved.

That is their question there, and I thought that is what you were talking about.

Mr. BROOKS. That is it, sir.

Mr. CAMPBELL. I have some concern about it also.

Let me ask you this, just for the sake of it. How are you handling your intercepts on joint tax returns?

Mr. BROOKS. This is something that the IRS deals with. We submit the names of the individuals who are in arrears to the State who, in turn, submits it to IRS.

I think that there have been some problems in that area. One of the ways we could solve this is if, in fact, there is a support order, then the individual must file a separate return. But we have not had that many problems in terms of the number of intercepts that have taken place in New York City.

Mr. CAMPBELL. Do you know how your State handles it on State returns?

Mr. BROOKS. No, I really don't, sir. This is the first year that we have gone through the State process.

Mr. CAMPBELL. I would really be interested if you could supply that, sir.

Mr. FEDERSPIEL. Yes, sir. On the State return, and I am not sure it was too successful this last year, the spouse can file a statement of nonobligation to pay if there should be an offset taken from the joint return and it is determined ahead of time by the State.

Mr. CAMPBELL. So that nonoffset would say they could not withhold 100 percent of the refund but 50 percent would be the limit on it?

Mr. FEDERSPIEL. Well, whatever the determination was made was her share of the return. However, I know some people who overlooked that section on the State return this last year, and more emphasis has to be placed on it because if they failed to do it, I don't know as they have a mechanism to make a redetermination.

It is a small problem this year. It has happened in a couple of cases that I do know.

Mr. CAMPBELL. Who would give the notice or how would the notice be given that an offset was going to take place?

Mr. BROOKS. It is automatic in the State in terms of any offset prior to it being taken. There is a due process notice that is sent out to the individual that an offset will be made, and they have a certain amount of time to come in and object to it. We do have that under control.

Our legislative office here in Washington will be glad to submit a copy of the State law.

Mr. CAMPBELL. I think it would be beneficial to have your comments about some of the problems. We are going to be looking at this sort of thing and we are going to need some experience that others have had in dealing with it.

Let me ask you this. In New York, do you take liens against the property for arrearages?

Mr. BROOKS. Well, in all honesty, we have some difficulty in our courts in terms of access to the courts and the volumes that we deal with.

I think you will see in my testimony that we have about 14,000 hearings in family court on AFDC cases alone. We take up about 50 percent of two-family court time on paternity and support.

In the enforcement cases that go to court, the judge is supposed to hand out a judgment; our petitions ask for a judgment.

There has been reluctance on the part of judges to issue these judgments by which we could go after property and things of that sort.

Mr. CAMPBELL. Because of the difference in law and the problems in the States, I am reluctant to interfere in many of the States' business. I don't like to do it.

On this issue, I happen to think it is a national problem. Some of the legislation that we have before us contains provisions, different provisions that would require a number of automatic steps to qualify for incentives and payments by the States, especially the granting of a lien which would be an automatic procedure on an arrearage that the court could go through.

We have an administrative process to try to keep from clogging the courts like you are talking about. We have an automatic report that goes to the credit bureau on people who are in arrears in some of the legislation, so that it directly affects that person who is not AFDC and worried about credit or whatever.

We have put some things in here that make the State take a tough look if they are going to get some of the incentives that we have. I wonder if this sort of tough approach from the Federal level would be a help to you as we pursue this?

Mr. BROOKS. Well, in terms of the administrative process which you have discussed, we do have a quasi-administrative process in New York State where we have hearing officers within the family court. However, the office of court administration within the State does not utilize it to its fullest extent.

This is definitely a State problem, and I think that we are trying to address it with the legislature in Albany.

In terms of the lien, we do have legislation on the books already that calls for judgments and liens.

In terms of the other issue that you raised—there was one other?

Mr. CAMPBELL. The credit bureau.

Mr. BROOKS. We have the right to do that right now and, as a matter of fact, we do it in New York City.

Mr. CAMPBELL. We are not talking about in some instances the right of people to do a lot of things. We are talking about a program that does some things in order for that State to be eligible for various incentive payments to upgrade or to utilize these tools, and that being the incentive to the legislature or the court or whoever, to make a better effort at the utilization of the tools that they might have available.

We have been concerned, many of us, that a lot of things are not being used. The court is reluctant to take a judgment against a guy's automobile because he did not make his payments. They are reluctant to take something against the house that he happens to still own because he did not do it.

Well, I am not really reluctant to do that. I think that where there is a reluctance, we ought to start looking at it because that obligation is with the person who is the natural parent when it is established. I firmly believe that. I hope that we pursue the legislation a little further to make sure that they do meet their obligation.

You mentioned something else, the direct payment to the custodial parent. I had a little concern with that. Right off the bat, it sounded great.

My little concern is this. If, in fact, we are going to draft a law that deals with arrearages, that deals with an automatic garnishment, not a new court order, that deals with automatic provisions being triggered when things take place, we would have a problem without a clearinghouse or without a third-party payment collection on this.

We need to establish those arrearages without getting back through the court again which could put us back into the 6-month, 7-month delay period, trying to even begin to move on it. That is the problem I have with the direct payment.

Sombody makes a direct payment. You have heard this story a thousand times. I have paid it in cash. He did not give me anything. You have got to have a check. The check stubs are lost.

Mr. BROOKS. I am referring to a direct payment from the employer only.

Mr. CAMPBELL. Only employers.

Mr. BROOKS. That is right.

Mr. CAMPBELL. That is only after garnishment?

Mr. BROOKS. That is after a support order is issued by the proper jurisdiction. Don't let him get into any financial hole by missing payments.

Mr. CAMPBELL. You are asking strictly for garnishment from the word go?

Mr. **Brooks**. Withhold support payments from his wages. I don't want to call it garnishment because I think you might have some problems with State laws if you call it garnishments, just as you withhold taxes to support the Government.

Mr. **Campbell**. Our problem comes with a lot of people that are upper or middle income who are not paid salaries. We don't want to be in a position, nor does the administration according to the Secretary, nor Mrs. Kennelly, I think, nor any of the rest of us that are working on this, of having tough procedures against the working person's, salary, and not having procedures that are workable against the people who may be in a better economic circumstance or a different circumstance, self-employed, higher income professionals or whatever.

So I did not want to in any manner stigmatize someone by having an upfront order against John Doe who works for a salary and no way to have a withholding from Bill Smith who is a professional that works for fees, because I don't want to differentiate him.

For that reason, in the piece of legislation that I put in, I left one option in there. The State could do this. A person could request if they were ordered to pay that there be withholding. It is fine.

The State can make an order, but the State has to order and garnish immediately under the Federal legislation that we are proposing after 2 months' cumulative total of payments, not 2 successive months, not in a year's time, but once any cumulative figure is reached that equals 2 months' payments, they have to immediately go into a garnishment at that stage.

They also have to have a program to establish a lien, credit reports and everything which hits across the board but does not hit that working person up front while you let the other one go. That has been a little bit of a concern of mine.

I wonder if you would speak to that.

Mr. **Brooks**. I appreciate that. I think it would be my concern too and I think that we would offer a suggestion that a bond have to be posted for the support or else that insurance be taken out that the support moneys are forthcoming from those individuals.

I agree with you wholeheartedly. I don't want to see a dual system here for different citizens.

Mr. **Campbell**. We want a law that applies to everybody from rich to poor and all across the board.

Mr. **Brooks**. Fine. The individual who is not employed but has other means of income can post the bond or get insurance to insure that payments will be made. I think it is feasible.

Mr. **Campbell**. A lot of individuals, as you well are aware, that have assets that get into a no-income status to avoid things. It has happened many a time.

Mr. **Brooks**. Fine. If they don't make the payments, then we execute it through the bond or through the insurance policy that that individual is paying for.

Mr. **Campbell**. I think that we need to do some of that. I don't want to get into a position of giving all the money to an insurance company for a bond, but I do want to get in a position of protecting the payment. I certainly think that is something we ought to consider.

I do appreciate your testimony.

The one thing that you did mention, your cases, as I understand the figures you gave, only about 10 percent of them are non-AFDC. I think you gave a couple of figures. One was a little over 300,000 or 350,000 cases with only about 30,000 that were non-AFDC.

Mr. BROOKS.The number of absent parents that we have on our caseload for AFDC is 340,000. We have 40,000 support orders against that caseload.

For the non-AFDC, I don't know what the numbers are, but I do have 50,000 support orders for the non-AFDC on the books which we have to monitor.

Mr. CAMPBELL. Regarding the penalties against the State, the question by Mrs. Kennelly on the 70 to 60 percent drop in Federal financing the bill that I introduced does not drop it. It stays at the 70 level.

I understand the theory behind the incentive to pull back up, but we felt that maybe we ought not to drop that figure. We could pick up the necessary revenue by eliminating the 12 percent off of the AFDC. With a commitment to over $100 million coming into the bill, which we are going to have to have, I am talking about other money, not that, and adding that to it, which gets you to the $200 million level, roughly, that we are talking about.

There has to be, though, some stick with the States in legislation. It can't be all carrot. And I understand when you say that you don't think there ought to be penalties because it would hurt. But I think they are going to have to be there in order to get the States the legislature, the courts, or whatever the agency, to well understand that they are going to suffer financially by not doing the job, as well as being rewarded if they do the job.

We have to have a carrot and a stick. We can't do it all the way with a carrot, and I hope you realize that.

Mr. BROOKS. I appreciate that, and I would suggest that perhaps we have a 3- or 5-year plan for each year and see if the States live up to those goals.

You are not going to do it overnight. It is a slow process. There is a lot of bureaucracy, a lot of interplay between Government agencies and courts and all that sort of thing.

I think that it is viable. We have management goals in New York City and we have to keep up with them. The administrators of the program are paid based upon their achievement of goals, and I have no problems with doing that. However, I think it has got to be over a period of time—3 years, 5 years—and realistic goals, goals that can be achieved, not some pie-in-the-sky sort of thing.

Mr. CAMPBELL. I understand.

The Secretary said this morning, of course, that they only had the one tool to withhold 5 percent of AFDC money, no sliding scale or nothing, and therefore it is not being used because it is too harsh. It does make a lot of sense to me that we need to move into some sliding scale on the penalty side and that we ought to have some legislation.

I don't believe any of the rest of it has a progressive requirement over that 3- or 4- or 5-year period that starts here and goes up each year to a high requirement for the incentives.

I think we are going to have to do that and I think you are right on it.

Mr. **Brooks.** I think it is logical, but I do have a problem in terms of a State like New York or California where you have counties which are operating the program on a local basis and doing an exceptional job, and then you have other counties which have differences in the demographics. They are trying to do it, but they cannot accomplish that sort of thing.

You have a mixed bag here and I think we have to be very cautious as to how we develop this. Right now in New York State, there is a penalty against the counties for failing to meet certain pie-in-the-sky goals that are set with unrealistic quotas. We have a lawsuit against the State right now.

I have no problems with goals. This is a management tool that I think is necessary and I think that it is a direction that we all should go in.

Mr. **Campbell.** We are not talking exactly about just goals. A goal is out there, but we are talking about absolute steps toward something that are going to have to be in legislation.

The question is, how do we establish a method to get from here to here and across the country to make sure that we have the result at the end that we are trying to reach, and that is, as much payment made as possible that is due from the parent to that child for support?

Whether that figure turns out to be 25, 35, 50 percent of what is ordered or what I don't know and you don't know. But that is the question that we are having to deal with.

I don't think that we could sit here and say we have goals. We are going to have to have something out there that is tangible that you are going to get if you reach a goal and something out there that is definite in the way of a penalty that is going to happen if there is no progress toward it.

Mr. **Brooks.** I have no problem with that because in New York State, you do have mandatory payroll deduction and a quasi-judicial system, and a tax intercept. We prohibit the judges from wiping out arrears.

We have judgments, requirements. These are all in place, and I am very proud that New York City has carried legislation in this area.

Mr. **Conable.** Can I warn you about one thing in this respect? Sometimes we set standards that the State has to meet or they are penalized. Sometimes the State is permitted to set its own program standards, and then we penalize them if their error rate is beyond a certain level. That can be a real trap, because it may be a big incentive for the State to lower its program standards, so that it will have a good error rate record. You are not really achieving what you set out to do.

The way you set out to try to establish a standard is important, but there is some resistance in this body to Federal standards for all States. You are moving in that direction if you decide that you are going to give the State no leeway in setting its own goals.

Mr. **Campbell.** Mr. Conable, I don't think that there is any anticipation that there is not going to be any leeway in setting the goals. Most of them have a rather broad range with the incentive that they would have to fall in to get this particular match or reward for having reached it.

The problem, I guess, is that however it can be done realistically, the legislation that we have to come forward with is going to have to do as much of a good job as it can toward getting money from the people that owe it to children.

The States have been the vehicle for getting there.

We are going and are looking at some other tools such as the Federal tax withholding. We are looking at the different tools that the State might have to put in and implement.

Now, their success rate might not be that great on the cases, but the implementation of the program is something else.

I am keenly aware of another State, not your State, so you don't have to worry, that also has on its books some of the things that you outlined but, to my knowledge, does not use them, does not enforce the law. That is where the incentive comes in. It does not do any good to put the penalty side on the books if it is not used.

That is where the incentive and the penalty come in. There can be latitude and goals and objectives which we have to have, as any management by objective situation must have. We have to try to reach it.

But I am deeply concerned when I see States that do put things on the books and then just act as if they were never there. That is one of the major problems that we have right now.

Mrs. KENNELLY. Thank you both very much.

The subcommittee will adjourn until Monday, July 18, at 1 o'clock, when hearings on AFDC and title XX social service legislation will be held.

[Whereupon, at 6 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

STATEMENT OF MICHAEL E. BARBER, COUNCIL MEMBER, SECTION OF FAMILY LAW, AMERICAN BAR ASSOCIATION

Mr. Chairman, members of the subcommittee, I want to thank the subcommittee for the opportunity to submit this statement to you on behalf of the American Bar Association. I am Michael E. Barber, Council Member of the Section of Family Law. I am here on behalf of the President of the American Bar Association, Morris Harrell, and the Chairman of the Family Law Section, Samuel Schoonmaker III, to request this subcommittee to support the current funding structure and percentages in effect in August 1982 for funding the system for enforcing family support obligations under Title IV-D of the Social Security Act.

In 1982, in preparation for the 1982-83 budget, the Office of Child Support Enforcement proposed doing away with the balanced approach to funding the system for enforcement of family support obligations under Title IV-D of the Social Security Act by diverting efforts totally to recoupment in welfare cases. This was done by making funding and thus jobs totally dependent on that narrow segment of responsibility under Title IV-D of the Social Security Act. In response, the House of Delegates of the ABA adopted in August of 1982 the attached resolution. Unfortunately, because the schedule of the House of Delegates permitted no earlier action, the resolution came after some spending cuts took place. However, the program insight embodied in this resolution was also similarly accepted by both houses of Congress, each of which rejected the Office of Child Support Enforcement's poorly framed proposal. It is our understanding that until recently O.C.S.E. was back with the same scheme. It is also our understanding that on the eve of the hearings before this subcommittee on July 14, H.H.S. and O.C.S.E. changed their position and have come forward with a new but undefined financing proposal. More specifically, the proposal among other things cuts administrative funding from 70 percent to 60 percent. The ABA opposes cuts in funding. There are also proposals for bonuses offered. We do not know what their effect would be. Because these proposals have not yet been reviewed by those agencies at the state and local level that perform this work, or the legal practitioners that deal with this subject, it is requested that the funding percentages of August 1982 be restored, and the present funding structure remain intact for at least the next fiscal year so that they can be studied. By doing so Congress will not only be protecting the rights of children, but also those of the taxpayers.

The present structure pays a percentage of the cost of child support enforcement (70 percent now, was 75 percent in August of 1982) and gives the enforcing jurisdiction 15 percent (to be dropped to 12 percent in October, 1983) of that portion of the collection that repays the taxpayer for having supported the family; under Title IV-A of the Social Security Act. This system of funding has served the public to a far better degree than anyone would be led to believe after listening to the testimony of July 14. This is because nothing in that testimony compared the present situation with that of 1975, the first year of the IV-D program.

Prior to January of 1975, the federal child support program had as its focus collecting reimbursement for IV-A (i.e., A.F.D.C. or welfare) expenditures. There was no non-welfare aspect to that program. There was no reimbursement for interstate effort. There was no cost reeimbursement for paternity cases. As a result, the general Accounting Office found there was no effective program and the taxpayer was losing money. It was because this narrowly focused effort was such a failure that Congress enacted IV-D with its broad and distinctive mandates. These are to collect reimbursement for IV-A expenditures, to enforce support for all children of single parent households, to do this in interstate cases, and to prove parentage regardless of any cost savings thereby.

The results were spectacular. In 1975, according to census figures, 1.2 million single parent households received some absent parent support. By 1978, this had gone up to 2.2 million, an 80 percent increase. President Ford in 1976 was able to announce a decline in IV-A activity, the first in forty years, attributable to the child support enforcement program. Paternity establishment per year has climbed by 50 percent since 1978, from 111,000 in that year to 174,000 in fiscal 1982. And the taxpayer has profited, albeit at an uneven rate. The following table shows how total program costs compare with collections of just funds that offest IV-A costs:

	Collections (for IV-A)	Total cost	Taxpayer saving
1978	$471,567,463	$312,339,447	$169,339,447
1979	596,626,441	359,859,585	236,716,854
1980	603,084,291	449,513,175	153,571,116
1981	670,637,925	512,530,865	158,107,060
1982	787,317,640	592,368,278	194,949,362

The return to the taxpayer has been increasing for the last three years at a higher and higher rate. Thus, in 1982, while overall return on the taxpayer investment was 32 percent, the return on the added investment between 1981 and 1982 was 45 percent. Were the government to put taxpayer funds in a money market account, the return would have been substantially lower.

It has been and continues to be a complaint of most states, including California, which is my residence, that the above analysis is too narrowly focused because it fails to take into consideration the cost avoidance aspect of the support enforcement program. Collections for families not receiving A.F.D.C. have increased from $575,122,989 in 1978 to $984,164,296 in 1982. Child support enforcement agencies estimate that 65 percent to 75 percent of their non-welfare cases involve former IV-A recipients. A study by Lenore Weitzman in the U.C.L.A. Law Review (August of 1981, page 1181) demonstrates that for a single parent with custody, divorce is an economic disaster, leaving that parent, at best, with only half of the per capita income available during the marriage. Welfare dependence is all too common, and inevitable unless child support can be collected. Thus, savings on A.F.D.C. grants are considerable Yet until July 14, O.C.S.E. focused mainly on collections on welfare cases. O.C.S.E., with a very limited view of the savings, was able to verify in 1982 a taxpayer saving of $94.1 million in the non-welfare program. This was just in S.F.D.C. grants. It is submitted that had it sampled cases of persons who were never on A.F.D.C. (another name for Title IV-A) and had data available from all fifty states, the amount of welfare funds saved would have been many times larger.

Office of Child Support Enforcement also understates this figure by failing to consider savings on administrative costs. In California, it costs four times as much per year to supervise a IV-A case ($484) than it costs to supervise a IV-D case ($115). By being able to keep a welfare case closed, the taxpayer saves $333 per year per case. While costs do vary nationwide, assuming we could turn all IV-A support related cases into non-welfare cases, applying California administrative costs, the taxpayer would save $1.8 billion in administrative costs alone. While this goal is unrealistic, if only a third of the welfare caes could be taken off the rolls the savings in administrative costs alone would exceed the total cost of Title IV-D. Viewed another way, in terms of the impact the IV-D program has had on the divorced and never married population, the program's success is readily apparent. Library of Congress statistics, taken from the Census Bureau for 1978 and 1981, were presented in the hearings of July 14. They should be compared with 1975, the first year of Title IV-D and a good bellweather as to how things were done prior to Title IV-D, as well as an overview of how much more needs to be done in this program.

	Number of families receiving support	Number eligible	Program cost
1975	1,137,000	4,922,000	Unknown.
1978	2,424,000	7,094,000	312,339,447
1981	2,902,000	8,387,000	592,368,278

Thus the number of single parent households receiving support has increased by 257 percent since 1975. The results are masked by the enormous increase in households eligible to be involved in Title IV-D, an increase of 170 percent in this seven-year period. In analyzing these figures, also realize that it takes time to bring cases on line. Thus 1981's collection figures represent cumulative effort from at least 1979 and 1980, and before. Thus, if the number of single parent families in this country had not grown by 170 percent but simply grown with the increase in the population during these years, the program results would have been spectacular. Testimony received on July 14 focused on the percentage decline in the eligible households receiving full support. It failed to tell the whole story, that is that eligible households receiving support had increased precipitously with the inception of Title IV-D. Congress's investment has paid off handsomely. The social climate change between 1975 and 1981 (and present), requires a greater investment, but one that we have seen will more than pay for itself.

In all of this fiscal analysis, not to be forgotten is the amount of activity in paternity work, and the mandate to continue that effort. The title of Part D is "Child Support and Establishment of Paternity." It is a separately stated program mandated under 42 U.S.C. 651, 652(a)(1), 654(4)(A) and 655(a), without regard to enforcement. And it has been a success. Since 1977, the number of paternities established per year have grown from 110,000 to 174,000 in 1982. it has had a very positive effect on child support enforcement. Because of the IV-D program, blood tests, tissue tests or both are not admitted to prove parentage in over 36 states, more than double the pre-1975 total. U.S. Supreme Court cases have been litigated on statutes of limitations successfully protecting out of wedlock children's rights to support. These would have gone unchallenged pre Title IV-D. The growing rate of out of wedlock birghs (10 percent of all live births in the early 1970's, 17 percent in 1982) has created a significant challenge for the enforcement agency. The challenge has been met, but not without a cost. Yet O.C.S.E. in its mandated report to Congress under 42 U.S.C. 652(a)(1) buries this separate cost within the overall program administration costs, and then implies that support enforcement is less than cost effective. Much of the debate that has concerned this program in the past has focused on cost of the program, without separating this item.

42 U.S.C. 652(a)(10) should be amended to prevent H.H.S. and O.C.S.E. from commingling the funding of this separate program with child support enforcement. Cost effective ratios should be confined to costs of enforcement, not paternity. This reform, it is submitted, would make it clear that support enforcement is profitable not only to the taxpayer, but to each of the entities through which the taxpayer works, the local, state and federal governments. This reform would cost nothing save a few extra pages in O.C.S.E.'s annual report. In the hearings of July 14 references were made to states that collected less than their costs. By separately stating this item, it is submitted their true cost might better be ascertained. It may well be that a high percentage of paternity cases in their respective caseloads makes them appear much less effective than they are.

Until recently H.H.S. and O.C.S.E. were trumpeting an alternate funding scheme that brought down the wrath of state and local agencies in this field. Because it would have made the child support enforcement program totally dependent on collections that reimburse the welfare program it would have impaired interstate, paternity and non-welfare work irretrievably. In fact, because its definition of cost effectiveness was based solely on welfare collections it would have guaranteed the continuation of the welfare program and made states that worked to substitute parental support for public support of children, cost-effective. It was this ill-founded proposal that brought about the inquiry by the Family Law Section leading to the American Bar Resolution that is the basis for this statement. We applaud Secretary Heckler and H.H.S. for dropping this proposal. However, before the new proposal is too hastily adopted it should be given careful scrutiny. The prior proposal, when given careful scrutiny was found fatally flawed. Given this experience, a new proposal needs much more review than H.H.S. has permitted so far.

In the meantime, the funding structure of child support enforcement developed in 1975 has proven to be quite effective. The present structure has returned to the taxpayer a constant and significant sum. It has saved the taxpayer millions more in welfare grants and the enormous cost of administration thereof. By protecting the rights of single parents who have been left without funds but with children to raise, it has given meaning to our constitutional promise of equal justice under law.

Finally, it meets a basic obligation of government protecting the underlying rights of the politically weakest and those least able to defend themselves, the out of wedlock infant. The American Bar Association calls upon Congress to continue this most effective program and to maintain the funding structure and levels in effect in August of 1982.

President Reagan stated in his State of the Union message for 1983: "We intend to strengthen enforcement of child support laws to ensure that single parents, most of whom are women, do not suffer financial hardship."

This can best be accomplished by reinforcing and strengthening the present funding system, retaining the 15 percent incentive, restoring 75 percent reimbursement not only for single parents but most of all for the children of single parents who most urgently need a renewal of your commitment to protect their family rights.

On behalf of the American Bar Association, and its Family Law Section, I thank the Chairman and the Subcommittee for permitting me to present these views.

APPENDIX A.—RESOLUTION OF THE HOUSE OF DELEGATES OF THE AMERICAN BAR ASSOCIATION ADOPTED AUGUST 1982

Resolved, That the American Bar Association calls upon Congress to maintain the funding system for enforcement of family support obligations presently in effect in Title IV-D of the Social Security Act, save and except the right to charge fees for such services be left up to the individual states.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY,
Phoenix, Ariz., July, 26, 1983.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
Longworth House Office Building, Washington, D.C.

DEAR MR. SALMON: As the Director of the Arizona Department of Economic Security, which includes the State Unemployment Insurance Program as well as the State Child Support Enforcement Program, I would like to provide the following comments on H. R. 926.

Arizona is a wage reporting State and the Unemployment Insurance Program currently obtains quarterly reports from each covered employer containing the name, social security number, and wages paid to each employee. Automated access is already available to appropriate personnel within the Child Support Enforcement Program. Therefore, most of the proposed legislation would not greatly affect this State.

However, we would like to voice a strong objection to the section of H. R. 926 which would require employers to submit and the Department to record addresses of all employees included on the quarterly reports.

The reasons for our objection are outlined below:

1. The additional demand upon employers would be excessive. Currently, our reports require an employer to make a simple one-line entry for each employee which includes name, social security number, and quarterly wages. To also require a current address on each employee would be a major imposition.

2. The demand upon the Department would be substantial: It would more than double the data to be entered and stored on each employee. We estimate the cost of this increase to be approximately $81,000.00 each quarter.

3. The value of this information to the Child Support Enforcement Program would be limited: (a) Accuracy of these addresses after a short while would be significantly reduced due to the mobility of today's society.

(b) Approximately 1.2 million employees are currently included on Arizona's quarterly wage reports, yet only a small percentage of these individuals would be of interest to the Child Support Enforcement Program.

4. The information currently obtained is adequate: Once the Child Support Enforcement Program becomes aware of the name and address of an individual's employer, they can easily contact that employer for a current or recent address.

Thank you for consideration of these comments.

Sincerely,

Bette DeGraw
(For Douglas X. Patino, *Director*).

Statement of Hon. Dave Durenberger, a U.S. Senator From the State of Minnesota

Mr. Chairman, this country was founded upon the notion of responsibility to one's family and country. In recent years, however, this basic tenet of our society has been eroded to the point of national disgrace. The situation to which I refer is the failure of many parents, generally men, to assume financial responsibility for their children.

Divorce has drastically alterred the composition of the American family. In 1980, there were 8.5 million single parent families, an increase of over 100 percent from 1970. The Census Bureau predicts that only half of all chldren born this year will spend their entire childhood living with both natural parents. Women head 90 percent of the rapidly growing number of single parent families.

What happens to a woman when confronted with a marriage that has been irreconcilably broken by financial problems, communication breakdowns and changing values? At age forty she may find herself raising her children alone, with no or limited means of support and terribly frightened.

Her efforts to achieve self-sufficiency and regain her self-esteem are frustrated by forces beyond her control. She quickly learns that the chances of employment are few without jobs skills and experience. She is confronted by the fact that the same society that encouraged her to raise and care for her family, now refuses to attach a value to the work she has performed.

If she is fortunate enough to obtain an order for child support from her former spouse, there is no guarantee that the support will ever be paid. While her standard of living quickly declines, she sees her former husband's increasing.

In many cases, she will be forced to turn to public assistance just to make ends meet. Only then can she find help collecting past-due support. Once the support starts arriving her financial situation improves—she now has enough income to obtain adequate dependent care, pay her medical bills and provide for transportation expenses.

Unfortunately, once she becomes self-sufficient she no longer finds child support collection officials anxious to pursue her child support claims. In time, the support stops and she is forced to return to public assistance. This Catch-22 may continue throughout her children's lives.

Many studies have been conducted on compliance with child support orders and the effect of failures to comply. These studies all point to the same conclusion: fathers don't pay their child suport. Of the $6.9 billion due from fathers in 1978, only $4.5 billion was ever paid. Between a quarter and a third of fathers never make a single court-ordered payment. According to a 1973 Michigan study, patterns of payment have no relation to the father's income. In fact, the economic circumstances of single fathers are usually better than while they were married. A recent California study revealed that a year after divorce, the wife's income dropped by 73 percent while the husband's rose by 42 percent.

This situation should shock the conscience of a responsible society. It has directly contributed to the frequently-mentioned "feminization of poverty" and it must be remedied.

Congress, in 1975, established the Child Support Enforcement program, Title IV-D of the Social Security Act. It requires each state to have an approved program of child support enforcement, including measures to establish paternity, locate missing fathers, establish or modify court child support orders and collect court-ordered support payments. The program is intended to serve both AFDC and non-AFDC families, with the latter being charges fees for services provided.

The Child Support Enforcement program is a good beginning, but more needs to be done to help women who are seeking child support for their children. Under the IV-D program, states were able to collect on only a small portion of both the AFDC and non-AFDC caseloads in 1982.

The program has been established primarily as a means of recovering some of the AFDC funds paid to single-parent families. This fact is frequently the leading cause of women caught in the vicious cycle of "on AFDC-off AFDC"—a frustrating merry-go-round.

The availability of assistance is scarce for the woman who refuses to apply for AFDC, earns too much for her family to qualify for AFDC or is a middle-class, single mother. She may find herself repeatedly returning to the court to collect child support—usually incurring high attorney bills. In many cases her problems are compounded by the fact that the father has moved to another state or to an unknown address—a situation that adds to the expense and diminishes the chance of recovery.

The IV-D program must still do more to help women become self-sufficient.

Mr. Chairman, I am proud to have introduced the Economic Equity Act, S. 888, in the Senate. Title V of that legislation is designed to improve and expand the IV-D program in order to return responsibility to those individuals who should properly bear such obligations. The Economic Equity Act is comprised of a number of provisions which I would like to briefly outline.

Purpose.—The EEA provides a clear statement of purpose for the Title IV-D program where none now exists. It would make clear that Congress intends for this program "to assure compliance with obligations to pay child support to *each child* in the U.S. living with only one parent." The intent of the purpose clause is to explicitly affirm that the program is to secure child support for the non-AFDC cases as well as the AFDC cases.

Income tax Offsets.—Under present law, states can notify IRS of absent parents who owe past-due support to children receiving AFDC. The Act would provide that States could use the same procedure on behalf of children not receiving AFDC and the proceeds would be paid to the custodial parent.

Improved State administration.—The Economic Equity Act provides that states, as a condition of an approved IV-D plan, must: seek medical support for children when available at a reasonable cost; provide for mandatory wage assignments in the case of delinquent support; impose liens against property and estates when support is delinquent; provide for offsets against State tax refunds to collect past-due support; establish quasi-judicial or administrative procedures to establish and enforce support orders; and establish a child support clearinghouse which would monitor the timeliness and accuracy of payments or support.

States would also be required to implement at least three of the following: voluntary wage assignment; use of an objective standard to ensure similarity of support orders in similar cases; default paternity procedures; the use of highly accurate, scientific tests to determine the likelihood of paternity; and the authorization for a court to order a security, bond, or other guarantee for support.

The Child Support Clearinghouse in each state would be financed from the existing 90 percent Federal funding provided by IV-D for planning and implementing computerized child support enforcement systems.

The other changes are not expected to impose substantially higher costs on states and may, in fact, achieve savings or be cost neutral by enabling states to enforce support more effectively and efficiently.

Mr. Chairman, improvement of child support enforcement in this country is imperative—both from a societal perspective and from an economic perspective. In the long run dollars invested in this program today will be returned to society many times again. If, through improved child support collection efforts, we can help single parents become self-sufficient, we will eventually see reductions in AFDC, food stamps and many other public assistance programs.

Finally, society can no longer dictate that single women must assume the entire burden of raising a family alone. The responsibility for the children of our nation rests with both the mother and the father. We must return responsibility to those who have abandoned their familial duties. As Reinhold Niebuhr once stated: "Life has no meaning except in terms of responsibility." Society will profit from these changes.

Mr. Chairman, I would like to commend you and the members of your Subcommittee for holding this hearing. I am hopeful that both the House and the Senate will act quickly to improve and expand child support enforcement in this country.

FATHERS UNITED FOR EQUAL RIGHTS, INC.,
Baltimore, Md., July 29, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
Longworth House Office Building, Washington, D.C.

GENTLEMEN: It is the opinion of Fathers United for Equal Rights that the proposed bill to intercept Federal Income Tax returns is not only unconstitutional but is also unconscionable. Each citizen of the United States is guaranteed by the Constitution not to have property taken without due process of law. You are now asked to dispense with the Constitution and withhold money without a fair and impartial hearing. You are further asked to injure innocent third parties if a man has remarried and has filed a joint tax return with his new wife.

On the surface this proposed bill is presented to your legislative body as a panancea to what is perceived as a "national disgrace", i.e. men who do not pay child support. Have you questioned why men do not pay child support? Have you actually thought about the "problem"?

You have heard testimony from numerous women who bemoan their predicaments. They will tell you that their former husbands "just do not pay." They fail to relate in testimony, how, when their children's fathers attempt to visit, they want only to maliciously withhold visitation rights. These women fail to testify how they instigate altercations at visiting times to make said visits as unpleasant as possible for all concerned. They fail to testify that when the father can bear no further abuse and stops trying to see his children, the mothers then claim the fathers have no interest in the children.

Furthermore, your witnesses fail to testify how their former husbands, under court order, were made to pay mortgages, utilities, insurance premiums, medical and dental bills, school tuitions and uniforms, marital financial obligations and attorney's fees in addition to child support and alimony. With all these financial responsibilities, a man then must establish living quarters for himself. This backbreaking financial monkey on the divorced father's collective backs precludes any possibility of starting their lives over and remarrying. If all this isn't bad enough, six months to a year after the divorce, the ex-wife will then file legal proceedings to increase the amounts of support.

To many of these mothers, child support and alimony are their wages. They refuse to look for employment because they have "small children" at home. They are content to remain parasites instead of becoming self-supporting. These woman intentionally disadvantage their children to receive the largess of the government along with child support and alimony. They then blame their economic situation on the ex-husbands whom they have alienated from his children financially bled white, and have driven away.

When fathers demonstrate to the court that it is impossible to make the ordered support payments, they are told to secure second jobs. If fathers still cannot meet the high price of divorce, they go to jail. Has any member of this august body ever heard of a custodial mother being incarcerated for willful denial of visitation? Why is the wife allowed to remain on her backside idly on the dole? Why doesn't the legislature become creative in its scope instead of reflexively looking for ways in which to squeeze the last penny possible from men.

It is a common business practice of the Federal Government to use monies withheld from a taxpayers paycheck and makes a profit on the interest accrued. If this bill is passed and a delinquent non-custodial father's tax return is intercepted do you honestly believe that any man will allow it to happen twice. How much money will the government lose in revenues when men are forced to secrete their assets and start owing taxes instead of money due them?

We at Fathers United for Equal Rights urge you to consider closely all the ramifications that the passage of this bill would present. We implore you not to be stampeded into a rash and precipitous decision. We ask that you look at the problems presented here as alternative testimony to the continual litany of biased witnesses.

Respectfully submitted.

CHARLES T. BIDDISON,
President.
RICHARD F. ACREE,
Vice-President.

STATEMENT OF JUANITA M. BRYANT, PRESIDENT, GENERAL FEDERATION OF WOMEN'S CLUBS

Mr. Chairman, the General Federation of Women's Clubs Appreciates the opportunity to submit testimony on the very important issue of child support enforcement. The General Federation of Women's Clubs is the largest and oldest non-denominational, nonpartisan, international service organization of volunteer women in the world, and was chartered by the United States Congress in 1904. The General Federation of Women's Clubs represents one-half million members in the United States, 10 million worldwide, embracing 52 State Federations, including the District of Columbia and Puerto Rico, eight regions, 421 districts, and 11,000 clubs.

We submit this testimony today, because of our strong support for increased enforcement of child support payments.

The General Federation of Women's Clubs has had a history of concern for children. Our membership has voted upon and adoted 10 resolutions concerning the welfare of children, and in fact, just a month and a half ago, at our international convention in Orlando, Florida, the convention body assembled, adopted the attached resolution entitled "Child Support Enforcement Program" which states in part:

Resolved, the General Federation of Women's clubs urges its member clubs to: 1. Study and become knowledgeable about the performance of the child support enforcement program in their respective states and localities; 2. Work for change intended to strengthen the program and make it more successful in the future.

The public preception is that fathers bear the entire burden of child support after divorce, allowing his ex-wife and children to maintain their former standard of living. The truth is very different. A recent California study found that one year after divorce the wife's income dropped by 73 percent, while the husband's rose by 42 percent.

Of the 4.8 million families awarded child support payments, 2 million families (42 percent) received no support payments, and 1 million families (21 percent) received partial payment. These figures dramatize the plight of millions of American children not receiving financial support from the non-custodial parent. Many of these children must depend on aid to families with dependent children (AFDC) as their sole means of financial support.

Some State programs are beginning to correct the problem. The program in Minnesota, for example, has tripled collection payments in five years. The Tennessee program increased AFDC related payments by 42 percent in one year.

In 1975, Congress established section IV-D of the Social Security Act which became the fedreal child support enforcement program. This program, however, was primarily intended to recover AFDC funds paid to single parent families. But as we plan for the future, it is essential to address the needs of all children. Congresswoman Kennelly's bill (H.R. 2374) would redirect title IV-D to apply to all children. The General Federation of Women's Clubs strongly support this initiative.

The most important component of this initiative is the use of State clearing houses to track payments from award to monthly receipt. Current enforcement is extremely fragmented and sporadic. Centralized enforcement will lead to significant increases in child support enforcement. Although some States have objected to the high costs of this approach, these costs are outweighed by the societal benefits.

Another important component of these reforms is the use of administrative methods of enforcement rather than judicial procedures. This alternative system will be more effective, accessible, and an efficient means of enforcing child support payments.

Millions of American children do not receive court ordered support payments. For many poverty results. The General Federation of Women's Clubs strongly support Congresswoman Kennelly's bill which will greatly reduce these children's suffering.

CHILD SUPPORT ENFORCEMENT PROGRAM

Whereas, Large numbers of women and children are suffering financial deprivation due to inadequate child support; and

Whereas, Government, and ultimately the taxpayer, is bearing the burden of financially supporting children deserted by parents able, but unwilling to meet their family responsibility; and

Whereas, the child support enforcement program administered by states and localities with the help of the federal government seeks to reduce the cost of welfare and to foster parental responsibility in place of welfare dependence; and

Whereas, Much more can be and needs to be done, through legislation and administrative action, to make the existing child support enforcement program even better; therefore

Resolved, That the General Federation of Women's Clubs urges member clubs to:

1. Study and become knowledgeable about the performance of the child support enforcement program in their respective states and localities;
2. Work for change intended to strengthen the program and make it more successful in the future.

STATEMENT OF THE INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC.

The Interstate Conference of Employment Security Agencies, Inc. is the organization representing state administrators of unemployment compensation programs and public employment offices throughout the country. This hearing addresses the serious problem of enforcing the payment of child support obligations, however, the unemployment insurance system would be affected by one of the bills under consideration by the Subcommittee, H.R. 926. That bill, the "Reducing Error in Income Support Programs Act of 1983" would require agencies administering the state unumployment compensation law to maintain records of how much each employer pays each of his employees each calendar quarter along with the employee's name and address. The agency would also be required to supply this information, on request, to the state child support enforcement agency as well as information about whether the individual had failed a claim for UI benefits, the amount of benefits paid or payable, whether the individual had refused employment and the address of the individual.

In the normal course of administering the unemployment insurance program most states collect the wage information required by H.R. 926. The following twelve states do not: Hawaii, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Ohio, Rhode Island, Utah (planning implementation), Vermont, and Wisconsin.

However, no state asks employers to provide the address of each employee as H.R. 926 would require. Individuals who file a claim for benefits provide the agency with their address at that time. This year the unemployment insurance system will process over three hundred million wage items. A wage item consists of the name, social security number and amount of wages paid to an employee in a particular quarter. Adding the address of the individual would require at a minimum redesigning of computer files and employer tax forms and increased processing time for both the employer and the state agency. In some states where data processing systems are already stretched to capacity, new equipment would likely be required.

For the twelve states that do not currently maintain wage record files the impact on the state unemployment insurance program would be much greater. Two basic methods have evolved for obtaining wage information to determine whether individuals have sufficient work and earnings to qualify for unemployment insurance benefits. The most common method is to require employers to report the name, social security number and wages paid to each employee each calendar quarter. When an individual becomes unemployed his wages are on record with the agency and a determination can be made quickly as to whether he qualifies for benefits. In wage record states the most recent wage data available is three to six months old since there is a time lag necessary to give the employer time to prepare the report at the end of the quarter and for the agency to have time to add the current report to its data base. Approximately 80 million wage items are reported each quarter. Some are on tape but most are key punched into agency wage record files. States that do not maintain quarterly wage records have a different method of determining whether individuals qualify for benefits. When a claim for UI benefits is filed, a request for wage information for the individual is sent to each of his former employers during the past year. States that use this method cite several advantages. One is that more recent wage information is obtained to determine whether the individual qualifies for benefits. The period used to determine benefit eligibility in these states is the most recent 52 week period. In states that use the wage record method, this period is usually the first four of the last five completed calendar quarters. Another advantage cited by states using the wage request method is that it is costly to maintain the entire universe of wages paid when only a very small percentage will be needed for claim determinations.

Among those states that do not currently maintain wage records, there may be some that would like to convert to that system. This conversion requires a significant investment of resources, primarily in the data processing area. H.R. 926 does not authorize any money for the changes to state UI systems that it requires. It is an expensive proposal. The Department of Labor has estimated the cost of coverting the current wage request states to wage records at $53M. In addition, including addresses in the wage files of states that already maintain wage records would cost $15M–$20M per year.

Federal legislation requiring states to compile quarterly wage records including addresses troubles us. The states that do not maintain these records have another way of doing business that many of them believe works better for them. Such a requirement would be the first instance in which the federal government has dictated a specific procedure for unemployment insurance operations to states. The most troubling aspect of the proposal is that the requirement is not intended to benefit the UI program. The UI system does not need to keep a file of addresses of every worker in the state. While state employment security agencies are willing to assist in enforcing the payment of child support obligations, the needs of that program should not shape the unemployment insurance system.

The unemployment insurance system is cooperating with state child support enforcement agencies already in identifying recipients of UI benefits who owe child support and in some cases deducting support payments from UI benefit checks. The UI system is willing to share information that is helpful to child support enforcement authorities whenever it is legal to do so. However, we believe that it would be a grave mistake to begin modifying the unemployment insurance system for the benefit of other social programs. Therefore, we urge that you reject the proposal of H.R. 926 that would require quarterly wage records including the address of each worker.

County of Cook,
Office of the State's Attorney,
Chicago, Ill., July 21, 1983.

Hon. Harold Ford,
Chairman, Subcommittee on Public Assistance, House Ways and Means Committee,
Longworth House Office Building, Washington, D.C.

Dear Congressman Ford: I would like to communicate to you my opposition to the proposed changes in federal funding of the child Support Enforcement Program contemplated by H.R. 3546.

While I share a commitment to the improved cost effectiveness of the Child Support Enforcement Program as evidenced by the State's Attorney's Office of Cook County's participation in one of the Urban Assistance Projects of the Office of Child Support Enforcement, I fear the noble goals of the program will be more difficult to achieve should the proposed funding changes be adopted. It is my opinion that state program administrators under the proposal would be compelled to reduce resources available to more costly operations, such as paternity establishment, under the auspices of efficient administration.

Furthermore, the impact of reducing the federal funding match from 70 percent to 60 percent would have the effect of increasing the State of Illinois' share of the administrative expenses of the program by one-third. The State of Illinois simply does not have sufficient funds available to assume this increased responsibility. The result would be a cutback in available funds to a socially beneficial program which has recently begun to demonstrate more efficient operations (Illinois is ranked eight among the states in the increase of AFDC collections from 1981 to 1982—a 38 percent improvement).

I suggest that you and your committee consider these negative aspects of H.R. 3546 and their detrimental effect upon government welfare agencies, custodial parents and children, and I urge you to defeat the proposal to reduce the federal funding contemplated by this bill.

I respectfully request that this letter be made a specific part of the permanent Congressional Record.

Sincerely,

Richard M. Daley.

MEN INTERNATIONAL, INC.,
Clearwater, Fla., July 28, 1983.

KEN BOWLER,
Committee on Ways and Means,
House of Representatives,
Rayburn Office Building, Washington, D.C.

DEAR MR. BOWLER: I am enclosing 6 copies of our official reply to the specific legislation pending before the committee. As you know, I received copies of the proposed bills rather later than I would have liked. I am also unfamiliar with several of the sections of law being amended and the effects that these amendments will have. I would rather have the supporting documents and have more time to study the matter. However, I have commented on some of our objections as they currently appear.

MEN International, Inc. does not oppose child support enforcement. We do oppose bringing unnecessary vindictiveness into Federal law. A careful reading of parts of the measures proposed exposes a few passages which add nothing essential to the purpose of the legislation, and are included as expressions of anger rather than positive legislative direction.

I must note formally our complaint at not being notified in sufficient time to respond for the record properly as we would have liked. I must also note the systematic denial of eligibility for federal funds to projects for the male gender. For example, while most activists on the hill speak about the gigantic numbers of battered women, and the epidemic of sexual assault in America, there has been no funding provided to treat the male perpetrators of such crimes. Prisons become temporary warehouses for these men who return, just as sick as when they entered, to rape again. In denying funding to men's centers Congress guarantees that these problems will continue to grow. Men have the problem in part. Limiting funding to women's programs is very much like limiting firefighting efforts to one house when two are ablaze!

Sincerely,

KENNETH R. PANGBORN,
President.

STATEMENT OF KENNETH R. PANGBORN, PRESIDENT, MEN INTERNATIONAL, INC.

I have been asked to respond to several bills pending before the Congress of the United States, H.R. 926, H.R. 2374, H.R. 3354, and H.R. 3512. My response comes by way of my official capacity of President of MEN International Inc. America's oldest and largest coalition of men's organizations. Firstly, while I have been provided with copies of the bills, I have been provided them at a very late date, and without the sections these bills often amend. This places my responses at a distinct disadvantage due to lack of information.Further the situation deprives us of adequate time to seek and obtain competent legal opinion as to the consequences of every such amendment.

I would like to formally object for the record to the process by which several matters have been placed before Congress, and substantial organizations such as ours who may have valuable input into the process whereby a fair determination could be effected, have not, despite recognition of our existence, been given the opportunity to respond to these proposed measures fully. Our input, and that of reputable organizations such as the National Congress for Men, Free Men, Inc., should have been sought out in matters that directly affect our constituents. These organizations and others account for a constituency of over 750,000 individuals and is worthy of some consideration. Contrary to the opinion of some special interest lobbies, theirs is NOT the only voices which should be heard. At least not in this Republic under this form of democracy.

I would respond to each measure in seriatum:

H.R. 926.

In the main, this bill we do not find objectionable. There are specific problems in a few areas; On page 2, line 14 starting under "C" the bill provides that the State is free to embark upon "fishing expeditions" into "such other information as such State agency may deem appropriate". Clearly there is a 5th Amendment problem. Such freewheeling ability to enquire into anything the "agency" desires should have such limitations as allows an individual a right to privacy from unreasonable search by the state. I would also pose that there are substantial 9th and 10th Amendment questions as well. We would propose that in the first alternative this subsection be deleted, or in the second alternative the word "legitimate" be inserted before the word "information" on line 14. This at least will provide for some appeal from unreasonable inquiries by these bureaucratic agencies and protect the individual from being hounded by irrelevant questioning. Unreasonable inquiry is already a problem with State agencies. The objectionable provision would open pandora's box for petty minions to harass and intimidate individuals.

Our second objection comes on page 3 starting at line 12, and appears again on page 4 starting at line 20. We can only question the motives for including a provision to disclose an individual's refusal of employment. The purposes to which this information would be used clearly violates the provisions of the 5th Amendment. There can be no purpose for the inclusion of such a requirement except for punative purposes. To place this in a more understandable perspective, let us suppose that the individual owing a support obligation did refuse employment. There is no requirement that the fact that the employment was refused for perfectly legitimate reasons be included with such a report. For example, if a medical condition exists that precludes the individual from accepting this work. If work conditions violate the persons religious convictions (ie; job requires work on Sunday). The person's reasons for refusing such employment while acceptable for the purposes of eligibility for Unemployment compensation may be acceptable, but not acceptable to those administering child support obligations. This subsection is unacceptable to us in any form.

The inclusion of this provision violates confidentiality of unemployment records which could be used for criminal prosecution. This violates a basic right against self incrimination. There are several States which make non-support a felony. In making the requirement of a disclosure of this nature basic guarantees of our Constitution are ignored.

It is possible that an individual refusing employment out of personal or religious convictions could also find themselves directed to make payments on the basis of the rate of pay they "would have earned" had they not refused the employment. This adds the second area where the individual may be prosecuted by disclosure of such information.

Since I am not familiar with the text of sec. 508 of the Unemployment Compensation Amendments of 1976, I would reserve comment upon seeing subsection (b). This also applies to subsection (b) of section 3 of the Wagner Payser Act.

H.R. 2374

In general this bill is also acceptable with a few objections. Our first objection comes on page 3 starting at line 17. Our objection is the wording "and the parent with whom the child is living". It appears to us that this is a back-door insertion of including collection of alimony payments in the collection scheme for child support. If this is a child support enforcement package this is one thing, but if is an alimony package then label it as such. We strongly object to coat-tailing alimony collection by this clever language. Certainly there were more honest ways of dealing with this. The intent of such language can speak for itself.

On page 6 starting at line 14 this measure calls for "highly accurate scientific testing to determine paternity". This provision is needlessly vague. The HLA test is known to be 99 percent accurate. Wording should more appropriately read:

"Requiring the use of the H.L.A. test or equally accurate scientifically accepted method of testing (as determined by the Secretary) to determine paternity."

We would also greatly prefer on page 6 at line 19 inserting the word "willful" before the word "pattern".

On page 7 starting at line 17 we object to the provision previnting the discharge in bankruptcy of alimony, child support, or property settlements under all circumstances. Persons to whom such obligations are owed may object to such discharge presently. Discharge or denial of discharge is within the discretion of the Federal Judge. Denial of discharge in bankruptcy in this blanket form may well affect child support payments in the negative. When a divorce court assigns marital debts (almost always to the male) it does so in the expectation that bankruptcy and the discharge of such debts is an option. If this option does not exist, then in equity the debts will have to be divided equally and would not be dischargeable to either party. Financially handicapped women with children would be devastated by such a requirement.

At the lowest common denominator, the inability to discharge in bankruptcy can and likely would apply to debts contained within a divorce decree. If such debts are not discussed in a decree assigning the responsibility to one individual, 40 states require that the debts are jointly owed.

If assigned exclusively to the male party, and the debts are not dischargeable in bankruptcy, the ability to pay child support can, and often would be obliterated.

The legal interpretation of this language would not be confined to prohibiting the discharge of child support in bankruptcy. While alimony arrearages have recently been interpreted as dischargeable, child support arrearages have not been dischargeable to this point, although a reasonable person might see circumstances where they should be.

We strongly object to the blanket repeal of Sec. 523 (a)(5) of Title 11, U.S.C. Instead we would offer an amendment that: "The discharge" in connection with separation agreement, divorce decree, or property settlement agreement" shall be within the discretion of the Bankruptcy Court."

In other respects the measure is not objectionable.

H.R. 3354

Our objections to this bill are minor in nature. Our first problem begins with subsection 4 beginning on page 3 at line 21. Specificly lines 25 on page 3 and through line 4 on page 4. We feel that this is freewheeling authority to enact "administrative procedures" that could take many directions Congress does not intend. It in reality allows the Secretary to "make law" by congressional neglect in setting limits. You can only speculate what an unreasonable person might erect as obstacles punative either to the person seeking assistance under this section, or those from whom support is sought.

I also have a serious problem with the term used several times such as on page 4 at line 21, and page 6 lines 1, referring to an "Administrative process and administrative Order". Without definition of what type of administrative Order or process you refer to, you open the door for a social worker at a county level welfare agency by fiat to establish a support obligation, which in all probability will not follow legal requirements (few social workers make even poor lawyers except in their own minds) and in some cases may be outrageous. In some states temporary support is sometimes established (in separation) by welfare agency social workers. In some cases these workers are not people with advanced degrees, and occasionally not even high school graduates. Their concept of reasonable support is translunar. Fortunately such support levels are not currently enforceable under state law. Under this wording they would be enforceable under federal law. If the obligee is in another state, under the RURESA provisions and this bill, such a fanciful directive from a completely unqualified source would bring the full punative weight of the federal government upon the parent. I do not detect any adequate mechanism for appeal of such a circumstance.

The lack of an adequate appeal mechanism is troublesome indeed even to the non-objectionable parts of the bill.

In other respects H.R. 3354 is a much needed provision. Its author could have been a little more even-handed and taken into consideration for appeal process whereby legitimate concerns of affected individuals could be heard. I would also add that I believe that this should include the custodial parent who feels they are being shortchanged by the same caprice.

H.R. 3512

We are greatly concerned that the intent of the change to Clause B of sect. 406 (a)(2) of the Social Security Act, page 5 line 7-9, is an attempt to raise by Federal mandate the age to which child support is collected from a terminus at age 18 (legal majority) to age 21. If this is intended to apply only to Social Security benefits we concur. But interpretation to apply to child support obligations of individuals is objectionable. Only a handful of states retain provisions allowing child support obligations to continue past age 18. The trend in law is currently that child support stops at age 18 except in exceptional circumstances. We are unsure as to the effect of this provision.

We are most anxious to express our support for the "emergency shelters" provisions. We share concern for the plight of battered women in America.

For the record we would pray that the plight of the 2 million battered children would not go unnoticed and that such shelters would also be eligible to apply under this section.

Also for the record we would like to note the research of Dr. Suzzane Steinmetz of the University of Delaware on the high incidence of "Battered Husbands" in America. It will be the intent of MEN International, Incorporated to apply for a federal grant to establish the first shelter for men under this act. We would ask that our eligibility (the male gender's) under this section be specifically addressed on the record so that such an application will not be dismissed by the administering agency on the basis that this section applies only to the female gender as victims, and that the agency knows that Congress also recognizes the plight of male victims as well. We shall conclude that in the absence of amending language limiting such grants to women's programs shall signify to the agency that our application receive equal consideration.

H.R. 3512 has our support for passage. Barring objectionable amendments.

In conclusion MEN International desires to express itself on another subject which shall present itself to Congress shortly. While not directly in the above referenced bills, we do feel is related. Soon Congress will be asked to consider the Equal Rights Amendment. Our organization, when this measure was first proposed expressed its endorsement for passage on behalf of the male gender. Again the ERA is being proposed. We desire to take this opportunity to again express our endorsement of the ERA. I do not feel that endorsement is a strong enough term to express our position. Our belief in the equality of the genders is as strong as our counterparts in the women's movement. While we may collide on issues occasionally, it is our feeling that we men cannot truly achieve our place in humanity if our sisters are burdened with meaningless limitations. We also view the ERA as a mechanism whereby men can free themselves from the yoke of oppression of irrelevant and erroneous stereotypes, some ancient and some modern. The male gender has no desire to be oppressors or be oppressed. The ERA would guarantee fairness to BOTH genders.

As a sideline, I am a divorced father with custody of three young daughters. The path to obtaining custody of my children was difficult for me. The difficulty I experienced fighting institutionalized prejudice is insignificant to that which my daughters have suffered. In the time I have had custody I have not been awarded child support (fathers almost never are) nor have I or the children received any indication of an interest in even the most miniscule support from their mother.

I paid child support in the period of time I did not have custody. I fully appreciate that the amount I paid was inadequate to support the children. As a parent who has custody I can only dream of how cheaply I was getting off.

As one whose professional life has been devoted to the children of divorce and the hardships on them, I must express dismay at the political nature of the debate going on today. Some seek the panacea of mandatory joint custody, others seek lengthy prison sentences for non-payment of child support. Both solutions have "revenge" as their motivation. Sanity dictates that family conciliation by mental health professionals, a therapeutic approach to divorce issues be initiated immediately. Mediation and arbitration are reasonable stop-gaps, but divorce is a subject matter peculiarly unsuited to the adversarial legal system. In that system hatred is a sacrament. This results in many ills, child abuse, child snatching, denial of visiting rights, and non-support. What is worse it pits gender against gender. The indications are that the incidence of death in family violence is on a dramatic raise. There is so much vilification in the media today, and total silence to bring peace. If the rate of violence remains as dramatic as it has been, human life on this continent may become extinct in our children's lifetime.

For our organization we reject the rhetoric of gender based hatred. We call upon responsible leaders in the women's movement and Congress to stand with us and resist the undeclared war. We ask the national media to be more evenhanded and responsible in its reporting and perhaps be more sophisticated than it had demonstrated here-to-fore in accepting sensational statistics without verifying their validity.

While there are many who would have the issue of child support enforcement discussed in a vacuum, the very first question is "can child support enforcement be isolated from all attendant issues". Those of a certain political bent will violently demand that it be so. Others suggest the need to keep the issue within context. Child support collections cannot be successfully isolated from other domestic relations issues no matter how much more politically expedient it may be for some individuals on a political crusade.

The hostility and incivility surrounding the issue of child support should not be swept under the rug. On no single issue is name calling and vehement rhetoric more abundant. On no issue does it serve constructive purpose less.

No sane person could deny that a problem exists in child support collections. Reasonable persons do differ as to the scope of those problems. It is not our purpose here to set the statistical record straight on the actual proportions of the problem. Let us say that we too, agree that a problem in fact, does exist.

The debate on child support problems too often has been limited to purely mechanical problems. The dynamics of this system or that. How computers are to be programmed. How many people need to be hired on top of the army of persons employed by various levels of government of already staggering proportions.

Debate on child support is not new. This is not the first congress to be requested to act on this issue. It seems that the fundamental question is never explored and a great deal of political effort and taxpayer dollars are expended to see that it is not explored in depth. That basic question is; "Why do these parents neglect or refuse to pay child support"?

To accurately answer the basic question on why the problem exists, is fundamental to finding a workable solution. It is obvious that when seeking an answer to why, the committee needs to ask those who are not making payments for the accurate answer. However testimony on this subject has been limited to various women's groups formed around the support issue, some of which are funded by taxpayer dollars. Testimony has also been taken from various individuals employed in the capacity of child support enforcement programs by various governmental agencies. The probability of conflicts of interest should be obvious. It is fair to point out that the "men" we are discussing if allowed to testify also have basic conflicts of interest on this subject. This, however, should no more disqualify their point of view than other persons with different conflicts unless their male gender is disqualification of itself.

In 1983 as in the previous years for the majority of the 20th century 92 percent of child custody awards in our nation were to women. Of the remainder 2 percent were to other family members, 2 percent to other placements such as foster care and 4 percent to the male parent. This statistic holds true with a variance of less than 2 percent for all 50 states, and all territorial possesions of the United States. The variance is limited to the up-side and not to the down-side of the maternal preference. While joint custody has been adopted into the law of nearly half the states, it is a rare event at best. Perhaps in time it will become more common, but as of this date it remains a statistical rarity except for a few individual counties. Much has been made of late of the statistics from two isolated counties in California where joint custody is in vogue. It does not reflect any sort of national trend, unfortunately.

In a domestic relations case, the male faces almost certain loss of custodial association with his children. This, for most men, is not a pleasant or desirable circumstance. In that 92 percent of child custody decisions the vast majority of men are awarded "reasonable rights of visitation". I doubt when confronted with reality, that anyone on the committee could term the visitation reasonable. In the United States, the normal visitation schedule is every other week-end from Saturday morning (10 A.M.) to Sunday at 4 P.M. and two weeks during the summer. The psychological research has well documented that on such a schedule, most men will begin to withdraw from regular visitation. This process takes place during a two year time span from the date of separation and judgment of divorce. We also note with avid interest that the same curve tracks child support payments. One curve can be placed over the other in almost identical patterns. As the absent father's contact with his child diminishes, so does his financial contributions.

In law there are two Latin terms, "In loco parentis", and the doctrine of "Parens Patrea". In domestic relations cases, the State becomes the legal parent of the child. In the course of deliberations, the Judge, acting as an officer of the state, will delegate responsibilities. The duty to provide child care goes to the women purely on a sex-role stereotype decision, and to the male, goes the duty to support. In law there has been much discussion of the issue of support. The more modern belief is that each parent is responsible for one half of the child's support. This application is hardly universal.

Other states pursue a formula of need and ability to pay. The needs are seldom actual needs, and the ability to pay is seldom the actual ability to pay. Child support awards are haphazard at best. All states allow extreme latitude in judicial discretion. In the rare cases where the male parent is awarded custody of minor children, in less than 10 percent of the cases is the father awarded support of any kind. Of those awarded child support less than 10 percent receive any support. This statistic should illustrate that the problem has nothing whatever to do with the gender of the person obliged to pay support, but the legal status of that parent as an inconsequential "vistor". The incentive to be diligent is removed.

In every state in America, visitation rights are not considered consequential. Punishment for the concealment of children from visitation is as rare as Soviet disarmament proposal (earnest ones). In the entire United States there have been only two occasions where custodial parents have been jailed for child restraint (denial of visitation), both in 1982, both in the same court in Michigan.

Available data suggests that at least one third of all non-custodial parents have all access to their children terminated by their former spouses contrary to rights of visitation, and at least 85 percent experience a significant degree of harassment in often futile attempts to pursue meaningful relations with their child.

We could and do support any legislative plan that provides for the children's needs for support. But, the Congress must realize that you cannot separate the child's need for support is not limited to material things. To use a threadbare cliché

"Money won't buy everything". The fundamental need of a child to both parents should not be overlooked.

I would offer a warning. No matter what legislation is enacted, no matter how punative the laws are made, the problem of child support collections will not be legislated away with half-measures. When equity and fairness is guaranteed, then will the problem be solved. Fairness to both parents and to the children. Children have an intrinsic right to access to both parents absent compelling interests to the contrary. Those interests are best decided by professionals and not angry ex-spouses.

If the Child Support Enforcement Act is enacted absent some protections for the non-custodial parent, the United States will soon find itself with massive concentration camps. Placing the heel of hob-nailed boots on the throats of the male gender without assuring them of a continuing parental relationship with the child for whom they are compelled to support is very much like "Taxation without representation". The British were foolish enough to miscalculate the American will.

Placing the non-custodial parent in such an adversarial position, with so few counterbalancing rights to protect them certainly should raise the question of the 14th Amendment to our Constitution. We have outlawed the feudal system of serfs and vassals. President Lincoln outlawed slavery and indentured servitude. You must examine with open minds the similarities to those social evils as you act.

In my capacity as a leader in the men's movement I have had the opportunity to counsel with tens of thousands of these men. In honesty I cannot say that all of them had the purest of motives. I can say that if given the opportunity, the vast majority of men would comply with reasonable support orders if they were given the human incentive to do so. If they were treated as human beings and not like gutter slime for no reason other than the vindictiveness of their estranged wives and their own gender.

I wish the committee to note that I have not argued that child support awards are unfair. While this may be true in some cases, it is the entire process that is unfair. A process that deprives a father of a parent-child relationship, not because he is unfit to have it, or that he has done something terrible to deserve it, but due entirely to a system which does not want to hear him.

I cannot bring myself to repeat the vulgarities used to me in my first divorce hearing. I was told to "shut up" and that "I had nothing to say that the Court wanted to hear". I had filed for divorce because of my former wife's problems with alcohol and drugs which caused violent behavior toward myself and our children. I was initially awarded visitation for one hour on the first Sunday of each month. I was ordered to pay $200 a month in child support and $612 a month in alimony for 3 children. My gross earnings were $975 per month. I refused to pay and was found in contempt. At the final divorce hearing support was set at $526 a month and I was awarded reasonable visitation. I did not see or speak to my daughters for 4½ years after that. In February 1981 I was awarded custody of my children. At the hearing over 300 pages of files and records pertaining to child abuse and neglect were accepted into evidence.

In those 4½ years a good deal of the support payments paid through the clerk of courts was expended on alcohol. My daughters often scrounged the neighborhoods for scraps of food. Often the children were subjected to the alcoholic rages of my former wife.

Rare? Quite the contrary. There are 2 million battered children in the United States each year. More than two thirds of those children fall victim to divorced mothers with custody and their companions. More than 85 percent of the fatal incidents of child abuse is at the hands of these same individuals. This was recently recognized in law by the West Virginia Supreme Court of Appeals in the case of *S.H.* v. *R.L.H.*, 289 S. E. 2d 186.

Children should not be regarded as property. Not by the parents, and not by the state. It would be very, very convenient to separate the issue of child support from the subject of child custody. The true motives of the vocal proponents of the child support issue can best be placed in the "light of day" by quoting from their own political bible, Ms. Magazine in its April 1983 issue, in an article discussing child custody. An outspoken spokesperson for the Washington based Center on Women and Family Law, who also had a representative testify before this Committee, claimed that children and the custody issue in specific were "women's best bargaining chips".

Speaking for the 500,000 men in various men's organizations across America, we refuse to bend to using our children as "bargaining chips". Most all of us would accept higher alimony payments and property settlements if we could have our children. We would accept a lower status in the workplace also. Children are not pawns in some selfish political gymnastics. Not to us.

The opportunity to prepare a statement was afforded to me far too late to prepare a table of data supporting our argumentation. However, if the Congress will consider my comments significant, I will be happy to provide a table of authorities. I can and will upon request provide a list of nationally prominent authorities on the social significance of this issue which, it is my earnest hope, will be able to remove this issue from the punative political designs of angry special interest groups, and into the arena of enlightment.

In the 1960's women's activists began lobbying for "No-Fault" divorce laws. Laws which would remove impediments to divorce by requiring that in order to obtain a divorce, one must first show evidence that the other spouse has acted wrongfully. Even very broad generalities such as cruel and inhuman treatment were regarded as stiffiling women's rights.

In 1983 over 60 percent of the marriage in America will end in divorce. Well over 80 percent involving children. There are an average of 1.5 children per divorce. It is officially estimated that only 10 percent of the children presently alive in America will live out their childhood (to age 18) in a home with both parents. Of those children 92 in 100 will be place in the custody of their divorced mother.

It is claimed that women earn 59 percent on the dollar to the male. In fact, a more complete reading of that statistic is that a single, non head of household female will earn 59 percent on the dollar contrasted to the male head of household. The single male earns 57 percent on that same dollar. A part of the statistics which those who urge the feminization of poverty seldom seem able to include.

Statistics on child support are often distorted by political influences and rhetoric. Distinction between support owed due to divorce and that owed in paternity cases in never made. Only six states make provision for the putative father to demand an HLA test to determine paternity. All require it performed at the expense of the putative father. Two states allow the father to be reimbursed at judicial discretion if it proves he is not the father. In most states a putative father cannot compell the admission of an HLA test (99 percent accurate) but is forced to rely on ancient methods of blood tests with 35 percent accuracy.

In paternity cases, the male is allowed no reproductive freedom afforded to his female sex partner, He cannot demand an abortion. If he relies on her assurances that a pregnancy will not result, he remains liable no matter how established it is that she was deceptive. (See *Serpico* matter New York 1982).

An extremely high ratio of putative fathers flee rather than face court proceedings and the almost inevitable consequences.

A case has been widely made for women's freedom of sexual expression. A case has also been made that women have the right to determine the consequences of sexual liaisons (*Roe* vs. *Wade*). While some political activists would have us believe that abortions now twice as prevelent as live births in America are the result of an epidemic of rape. I find it impossible to accept that the inmate of the abortion clinics have been raped ten and fifteen times. It is even harder to accept when medical evidence of the ratio of pregnancies resulting from rape are considered. This would mean that these women have been raped more than 200 times each. If true, I would think they might want to consider some alternatives to placing themselves at such risk. I would also suggest they contact the people at Guiness.

A distinction for illegitimate children must be made. A provision to mandate the HLA test. We must make sure that not only those who played must pay, but spectators don't have to.

I would be happy to place myself at the disposal of Congress for cross examination. I believe that I have had more extensive contact with individuals not paying child support than any person in this country. I assure you that my testimony would be forthright and honest and not designed to defend the male gender. Certain criticisms are valid. I believe that my professional objectivity is intact. I do a great deal of court connected work across America in child custody cases. I have been appointed by Courts in many different states to act as Guardian ad litem for children in such cases. I do not believe that my objectivity could be seriously questioned.

I would hope that the Child Support Enforcement bill receives serious consideration, but I would recommend modifications to it that along with enforcement of child support, hand-in-hand would go equal enforcement of the child's right to access to both parents. I could give my whole hearted support to such a bill as would all of our members. I believe that such an inclusion would be a good litmus test of the intellectual honesty of the supporters of the legislation.

Certainly as child support enforcement is an issue for federal concern, only the most extremely convuluted logic would pretend that enforcement of a child's right to associate with his or her parents is not. If only issues favoring women are a Federal concern, then democracy is lost.

The argument I expect from apologists is that the difference comes through poverty and welfare burdens. I would point out that the single parent home is a drain on federal programs as a consequence of the insane and totally unsupportable preference for women in custody cases. 85 percent of the prison population in the United States comes from single parent, mother headed homes. Of the children in single parent mother households, two thirds have problems with juvenile delinquency, drug or alcohol dependency, adolescent suicide, promiscuity and frequent abortions, and desperately bad social interpersonal relationships. Yet contrasted to households headed by single parent fathers, the incidence of these same problems is two thirds lower. To explain away these problems merely on a monetary basis is erroneous. In short the consequences in making custody and visitation issues a federal question are even greater than those which indicate child support is a federal question. If it is appropriate for Congress to act in one area of family law, then the entire spectrum *must* receive equal consideration.

Upon review of the legislation, if passed, the probability of a constitutional challenge in the Courts remains a distinct possibility. Our request is that Congress act in an even handed manner, and that there not be established a special class giving persons either superior rights or others inferior rights. Our constitution constrains Congress in this manner. Law is not to be written blindly, but ever vigilant to its consequences for all citizens. As despicable as some special interest groups and their spokespersons in Congress may believe the affected persons to be, our land is one that is supposed to protect citizens from the wild passions of outraged masses. Therefore the lynch-mob has no legal standing. We beg Congress not to give it credibility at this late date, no matter how many professional credentials it hides behind.

STATEMENT OF THE STATE OF MINNESOTA OFFICE OF CHILD SUPPORT ENFORCEMENT, MINNESOTA FAMILY SUPPORT AND RECOVERY COUNCIL, MINNESOTA COUNTY ATTORNEYS ASSOCIATION, AND HENNEPIN COUNTY ATTORNEYS OFFICE

Mr. Chairman, Members of the Subcommittee: This written statement is submitted to the Committee by the State of Minnesota-Office of Child Support Enforcement, the Minnesota County Attorneys Association, and Family Support and Recovery Council, and the Hennepin County Attorneys Office, all of which are united and firm in their support of H.R. 2374, the Child Support Improvements Act of 1983.

We give you two reasons to support the child support enforcement provisions of this bill. One reason is the outrage over the irresponsibility of large numbers of parents in not contributing to the support of their children. The second reason is the need to control welfare cost in this nation.

One of every eight families in the State of Minnesota is headed by a single female parent. One third of the children in these families under eighteen years of age is living in poverty. Most fathers are not paying adequate support, if they are paying at all. In fact, in over 50 percent of public assistance cases in Minnesota, the absent parent is both employed and paying no child support.

A humane society provides for its children. Our society does this by providing the AFDC program for families who cannot meet their own needs. A just society insists that the absent parent face his responsibilities for his family. The Child Support improvements Act speaks to that concern. This was the rationale behind the recent Minnesota legislation to strengthen child support enforcement, and is the rationale behind our strong support of the child support provisions of H.R. 2374.

Child support collections in the State of Minnesota have increased from 14.1 million dollars in 1977 to over 43 million dollars in 1982. Clearly this is a dramatic increase. Minnesota's successful collections program can be attributed largely to its progressive legislation.

Minnesota has had a state tax refund interception program in operation for three years. This program has allowed the child support agencies to intercept the state income and/or property tax refunds of any person whose family is on welfare and who has become delinquent in their support payments. This has saved Minnesota taxpayers nearly 3 million dollars in 1982 and collections of more than 3 million are expected in 1983. The intercept program has been so successful that in 1982 the program was expanded to include delinquent support owed to families not on welfare.

Minnesota has had wage withholding for child support since 1971. Recent amendments have broadened the definition of income subject to withholding for child support and maintenance, and mandated that every support or maintenance order provide that the support be withheld from the obligor's income if the obligor defaults in payments. These amendments have provided the child support agencies with a most effective and expeditious enforcement tool.

Minnesota's experience with tax refund intercept and income withholding has provided a model for the comparable components proposed by the Child Support Enforcement Improvements Act.

The Omnibus Child Support Enforcement bill passed in Minnesota's 1983 legislative session makes a strong statement on public policy and the rights of children to be supported by their natural parents. That Omnibus bill requires that the courts apply uniform guidelines in establishing the level of the child support obligation; further, that support orders must be adjusted periodically by the increase in the cost of living. Thus, a child will be guaranteed a consistent and fair standard of support. Further, the Minnesota legislature has provided the child support agency with additional remedies for the collection of support arrearages. Accrued arrearages will operate as a lien on the obligor's real property. In addition, the court may order that payments on arrearages be withheld from the obligor's income and submitted to the child support agency.

The importance of statutory mandates such as these has been recognized in the Child Support Enforcement Improvement Act. State judicial bodies must be convinced that child support enforcement is essential. The public must be convinced that absent parents have a responsibility to contribute to the cost of raising their own children. Clearly the Title IV-D program provides an alternative to public assistance.

The Title IV-D program provides child support collection services to both public assistance recipients and those custodial parents not receiving public assistance. In Minnesota 37 percent of all child support collected through the Title IV-D program goes directly to custodial parents to aid in supporting children.

The non-public assistance portion of the Title IV-D program does not return dollars to government. However, it fulfills an important government interest in assuring that parents, not the government, are the primary support of children. The Child Support Enforcement Improvements Act would provide a clear statement of purpose for the Title IV-D program. It would state that the purpose of the program is not only to reimburse public assistance but to secure child support for all children. The Child Support Enforcement Improvements Act would strengthen the intent of the program and would provide additional tools to assist in collection of child support for non-public assistance recipients such as the expansion of the tax intercept program and the establishment of state clearinghouses.

The substantive legislative enactments in Minnesota in recent years were targeted at a child support enforcement problem that is not unique to Minnesota. In fact, in numerous other jurisdictions throughout our county the situation is even more critical. Delays in interstate support matters of nine months and beyond are not uncommon when one state is dependent on another for enforcement action. In approximately 15-20 percent of our child support cases, Minnesota must rely on another jurisdiction for enforcement because the absent parent lives or works outside of the state.

Whether or not a Minnesota family receives child support in these cases depends largely on the statutes enacted by the other state or territory. If little or no emphasis is placed on child support enforcement in the other state, our hands are tied and our offer of enforcement services to the family becomes merely a gesture.

The aforementioned issues and many others were studied in depth by a Child Support Enforcement Task Force created by the Hennepin County Board of Commissioners in July 1981. Hennepin County has a population of 948,470 and includes the City of Minneapolis, the largest metropolitan area in the State of Minnesota. Task Force members were selected whose positions and experience moved them to contribute to the resolution of the issues surrounding the child support enforcement program. They were charged to review the county's current policies and procedures in the child support system; compare those policies and procedures to those in effect in other jurisdictions; determine what changes would be appropriate; and develop recommendations for effecting those changes. Many of those recommendations gave impetus to the enactment of Minnesota's 1983 Omnibus Child Support bill. A copy of the Task Force Proceedings, Volumes I and II accompanies this statement. [The material has been retained in the subcommittee files.]

Eight years have passed since the enactment of Title IV-D of the Social Security Act. These eight years have taught us that state legislatures have to be convinced that their child support and paternity laws need to be strengthened. Increased national emphasis will gain the Title IV-D child support program the additional support and recognition it needs at the state and local levels. For these reasons the strong remedies of the Child Support Enforcement Improvements Act of 1983, H.R. 2374, are essential to the overall child support enforcement effort in this country.

STATEMENT OF COMMISSIONER, CESAR A. PERALES, COMMISSIONER, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES

Every child has a right to receive financial support from his parents. However, as the enormous expenditures incurred each year by this nation for Aid to Families with Dependent Children (AFDC) so painfully remind us not all children are so fortunate as to actually receive that support. In New York State alone, the non-receipt or the receipt of insufficient child support is the reason for AFDC eligibility in over 85 percent of the cases. Of course, the lack of support is not limited to children receiving public assistance, as many non-welfare families are forced to live at or near the poverty level.

Since the establishment of the Child Support Enforcement Program by Congress in 1975, the results of efforts made in securing support for these children have been very encouraging. Collections in New York State on behalf of children in receipt of AFDC have risen from approximately $31 million in 1976 to $59 million in the the most recent State fiscal year. Of equal importance, collections for non-AFDC cases rose from approximately $75 million to $100 million over the same period. The program provides direct benefits by reducing the welfare burden on the taxpayer, and indirect benfits by keeping the non-AFDC family off the public assistance roll by insuring that legally responsible parents support their dependents. It is clear that the principal factor contributing to the success of the program has been the enriched federal funding made available for reimbursement of the program's administrative costs, and the methodology employed to share AFDC collections. The continued federal-level investment in the child support program is in the national interest as this activity attacks the major cause of the very expensive AFDC program—nonsupport of children. The absence of this funding would cause a major setback to the child support enforcement program nationwide. Ironically, earlier this year the Administration proposed the elimination of this favorable funding plan; however, a sudden and marked change in the Administration's position was unveiled July 14, 1983, under which total available funds would not be reduced and program performance would be stimulated. The details of that new proposal are set forth as the "Child Support Enforcement Amendments of 1983" (HR 3546).

Changes with regard to program financing as proposed under HR 3546 include the reduction of federal funding of administrative costs from 70 percent to 60 percent, and the elimination of the incentive paid to states for ADC collections, (currently 15 percent; 12 percent effective October 1, 1983). The impact of these reductions on the states will be offset by the availability of $200 million in discretionary funds for bonus payments to states exhibiting exemplary performance. For activities related to AFDC cases, states will share $100 million of that bonus pool based on achievement of specified increases in ADC collections and cost effectiveness as compared to national averages. For non-AFDC cases, states will receive a percentage of $100 million equal to their percentage of total nationwide non-AFDC collections.

While I concur with the intent of this portion of the proposal, which seeks to reward efforts to improve program performance, I wish to address two potential problems that exist with regard to the bonus payments. First, the $200 million bonus pool should be established as an appropriated rather than discretionary fund, since the latter is subject to approval by the Office of Management and Budget. Reduction of the $200 million would have a serious effect on the program.

Second, in most states, the child support enforcement agency is not authorized to collect support for all categories of non-AFDC cases, but may be limited to involvement with orders issued by only certain courts within the judicial system. Thus, many cases in which direct payments are ordered would not be included as part of a state's total non-AFDC collections. If, however, such states were to change their laws or procedures to require all child support monies to be paid through this program, their share of the non-AFDC bonus would rise. This type of action, requiring that all payments be made through a government agency for the purpose of maximizing the level of bonus received, does not properly reflect the intent of the provisions of the Social Security Act and should not be rewarded. In addition, it would improperly place an individual's private affairs under government scrutiny and regulation. I urge this subcommittee to provide a measure of control as part of this proposal, to prevent the occurrence of this type of situation.

Further provisions of HR 3546 require states to charge non-AFDC clients an application fee of at least $25 at the time child support enforcement services are requested, and mandate the imposition of collection charges against delinquent respondents in non-AFDC cases. I request that this subcommittee strongly oppose that portion of the Administration's proposal. The imposition of such a fee could pose a hardship on many families at a time when they are experiencing financial difficulty. To impose a fee for this type of government service would seem to conflict with the primary purpose of offering the service—to provide financial support. Also, the mandated charge against respondents with delinquent accounts would most likely never be collected in most cases, since delinquent support obligations would have to be satisfied prior to satisfaction of any accrued collection charges. Thus, states would experience a significant administrative burden in carrying out these provisions, with minimal financial benefit.

Several required practices are included as part of HR 3546. The first of these, mandatory wage withholding has worked successfully in New York State, and we would hope that any federal level mandate for such procedure would include sufficient flexibility to allow us to continue use of our present system without extensive modification. However, the requirement for the establishment of a quasi-judicial or administrative procedure could cause serious administrative difficulties in some states. To mandate such an activity would limit a state's choice on how to organize its programs, and could conflict with a state's constitutional requirements regarding organizational functions and duties. I request that this subcommittee oppose that portion of the proposal.

Further provisions of HR 3546 provide for a mandatory state income tax refund offset process, new federal audit and penalty provisions, increased availability of the federal parent locator service, the extension of 1115 demonstration grants, and the reinstatement of the authority to handle support matters for foster care cases in the same manner as AFDC cases. These provisions are welcome enhancements to the operation and management of the child support enforcement program and properly reflect the cooperation necessary for improved program performance.

I wish to thank you for the opportunity to present New York State's views on this very important subject. I urge you to take the necessary steps to insure that sufficient funding remains available to allow states to properly carry out their full range of responsibilities under the child support enforcement program. With your assistance, we will build upon the progress we have made in the past, and move closer to the goal of returning the responsibility for supporting all children to their parents.

ALEXANDRIA, VA., *July 24, 1983.*

Hon. HAROLD E. FORD,
Chairman, Subcommittee on Public Assistance, House of Representatives, Washington, D.C.

DEAR SIR: My purpose in writing to you is to relate my experience concerning child support. It is my understanding that you are considering legislation to ensure child support payments to custodial parents. I support the recommendation that a minimum amount of child support be set and/or a percentage rate be set so that child support is based on the non-custodial parent's income or ability to pay. Also, that the burden of proof, for not paying the minimum amount, be the responsibility of the non-custodial parent.

I also recommend non-payment be a Federal offense because, not only is there inconsistency between states enforcing child support payments, there is inconsistency between counties within a state.

I encourage you to help custodial parents and children in much worse financial situations than I have been in. Financially-strapped custodial parents are forced, along with the children, to live in some very compromising situations. My son is a very responsible latch key child, but it does not diminish the worry or the guilt.

The following is my experience over the past decade, which ended with a final court hearing in a rural county of Georgia. Please bear with the length and details which I believe are necessary to communicate the total experience to you to illustrate the need for child support legislation.

In 1969, I married Bernard W. (Bill) Rothfolk in Iowa. One month after we married, 'we' were drafted into the Army (our married life was in Fort Hood, Texas). In 1971, after the birth of our son, Jaysyn, and Mr. Rothfolk's discharge, I divorced (uncontested) Mr. Rothfolk. Our youth and 'take' vs. 'give/repay' attitudes, as well as the Army experience expedited the inevitable.

The divorce cost $225 in Fort Hood; the attorneys recommended $150 a month child support. Since child care in 1971 was $50, I thought $75 a month on Mr. Rothfolk's $7,500 annual salary would be adequate at that time. I naively assumed he would voluntarily help if I needed more. His father volunteered to pay off 18 years of child support. I refused his father's money. I had embarrassed the Rothfolks by divorcing their son but they continued to be wonderful grandparents to Jaysyn.

By the end of 1971, I knew I did not want to make Fort Hood, Texas, our home. I could not find a job at home in Iowa, so I transferred to the Washington, D.C. head-quarters of my Texas employer. Upon arriving in D.C., my rent doubled and childcare tripled. I worked as a legal secretary for three years and waitressed on weekends. My pleas for financial help from Mr. Rothfolk were dismissed like that of a begging dog. Mr. Rothfolk had stated that I was a good mother, he knew Jaysyn would never suffer; why should he make it easy for me?

I was informed of the Uniform Reciprocal Support Act. Through the Fairfax County, Virginia Juvenile Court, we started the process to get a modification through to Muscatine, Iowa. Before we could proceed very far, Mr. Rothfolk moved to Indianapolis, Indiana, and before we could get through to Indianapolis, Mr. Rothfolk moved to Atlanta, Georgia.

When I finally received a response from Atlanta, I was told that they do not act until he is 90 days late (he was 10, 20, maybe 30 days late regularly) and that if I wanted a modification, I would have to hire a private attorney in the county where he lived (DeKalb). It was very frustrating—if I did not have enough child support money, how could I afford a private attorney. . . .

Since the divorce was in Texas, Jaysyn and I lived in Virginia and Mr. Rothfolk lived in Georgia, it took a long time to find an attorney who would accept this case. Mr. Rothfold enjoyed the boundaries of state jurisdictions.

Attorney (Graydon) Florence of Atlanta, for $200, succeeded in obtaining a "contract" for $150 a month in 1977. (Child care had been running $200 a month for those six years.) Mr. Rothfolk's attorney, Hugh Newberry, moved for a jury trial in order to discourage me. According to Attorney Florence, in the state of Georgia, child support was to be based on the non-custodial parent's ability to pay (even if I lived on Park Avenue). On a $16,000 + salary, Mr. Rothfolk was capable of paying $300 a month (about 25 percent of his income). I accepted $150 (the amount I should have had in 1971) because I had no more money to pursue more money. I had hoped for one-half of Jaysyn's expense ($450), which was $225 at that time. When I asked why I had to go through attorneys, he said he knew he would have to pay it sometime, but he was not going to pay until he had to.

After the 1977 increase, Mr. Rothfolk accepted Jaysyn for a one-week visit. One visit in 12 years—no calls, no letters, no attention—an occasional unfulfilled promise. I have begged Mr. Rothfolk to pay attention to Jaysyn in any way. (Mr. Rothfolk and his twin (adopted) are the products of very devoted parents). Mr. Rothfolk (in Georgia) is physically closer in distance to Jaysyn than any of the other cities he has lived.

In 1980, Grandfather Rothfolk suffered his first heart attack. My son idolized him—I begged Mr. Rothfolk to take Jaysyn to see his grandparents. He lost his grandfather the end of that year. The night of his death, Mr. Rothfolk offered to pay our air fare if I would take Jaysyn to Iowa for the funeral. So I promptly charged the air fare and took Jaysyn home to his grandfather's funeral. I had a new job, no leave, debts and no money, yet I did not feel I had a choice of whether to take Jaysyn to the funeral given Mr. Rothfolk's promise to pay the air fare. (Jaysyn felt he needed to be with his grandmother (now 77; she will not fly—he can only be with her if he goes to Iowa).) I forwarded the air fare bill directly to Mr. Rothfolk. He made partial payments, stopped paying without notifying me (which caused the account to become delinquent), then denied he made the promise.

In February 1982, I had written Mr. Rothfolk to please help with summer camp/activities that I could not budget and to consider an increase without going through attorneys. In March 1982, after another late check bounced, he stopped paying child support. Attorney Florence told me he could not help me unless I had "fire in my eyes." I was only requesting a fair amount of child support.

By late Summer 1982, I was referred to a very professional attorney, Ralph Merck, in Atlanta. The first procedure was to domesticate the Texas decree in Georgia, request it be enforced and request a modification.

During our efforts to serve Mr. Rothfolk, we discovered he had moved to Dawsonville, Georgia, at the same time he stopped paying child support (six months earlier). Since he had moved to a different county, the process had to start all over again. Mr. Rothfolk was again protected—by a change in county. Attorney Merck was kind enough to continue with my case.

Finally, a hearing was set for November 1982, in Judge A. Richard Kenyon's Judicial Circuit Court in Hall County. Georgia (which included jurisdiction over Dawson County, where Mr. Rothfolk now lives). Mr. Rothfolk did not appear at this hearing. Judge Kenyon appeared to be a very professional, perceptive man. Because Texas, Virginia and Georgia were involved, Attorney Merck had to prove that Texas and Virginia would also domesticate and enforce a Georgia decree. At that point, I had incurred $900 attorneys fees, of which Mr. Rothfolk was charged only $250. Additionally, I had spent $37 and $43 in two service attempts and $260 to appear at the November 1982 hearing in Gainesville, Georgia.

At this hearing, Mr. Rothfolk's attorney, James Walters, argued that Mr. Rothfolk was only required to be represented, not appear. Attorney Walters also argued that he was not in contempt since the divorce decree only required Mr. Rothfolk to pay $75 a month and that the $150 was not enforceable. That, in fact, Mr. Rothfolk had over-paid child support. Judge Keyon's response: 'Are you playing trivia with this court?' Judge Kenyon reminded Attorney Walters that it was an enforceable contract and that $75 a month on a $16,000 slary was not one-third of what Health and Human Services recommends. Judge Kenyon domesticated the divorce decree. I received all back child support payments within a few days of that hearing.

Since Mr. Rothfolk did not appear, the modification request could not be resolved at that time. Judge Kenyon continued the case allowing a discovery period. He also said that the case should be handled without requiring my return to Gainesville, Georgia, and that he did not want this to take six months.

Judge Kenyon also indicated that, in such cases when an individual is delinquent with child support payments, such payments will automatically go through the courts. Except that, although Mr. Rothfolk lives in Dawson County and is under the jurisdiction of the Hall County Circuit Court, Dawson County has no such service. In other words, I will have to continue with the uncertainty of late payments and bouncing checks.

Discovery inquiries were completed by the April 1983 deadline, and a Final Hearing was set for July 12, 1983 in Judge Kenyon's court (eight months after the first hearing), requiring both parties to be present. The April child support check bounced; and cash was not available to me until the July 12 hearing date (when I had to go to the Gainesville bank and trade the 'insufficient funds' check in for cash).

An analysis of the information disclosed in the discovery papers concerning Mr. Rothfolk's financial history, as well as Jaysyn's monthly expense, was left with the judge at the July 12 Final Hearing. The discovery papers disclosed that the year of Mr. Rothfold's father's death (1980), he had received $16,318.78 lump sum profit-sharing payment from his employer, upon resigning, and accepted another position paying $320 less a month. Of the $16,318.78 payment, $8,500 was rolled over into an IRA account. Under oath at the July hearing, he stated that he no longer had that IRA account, that he took the money out two or three years ago. His tax forms for 1980 and 1981 indicate he did not pay taxes on that $8,500 two or three years ago.

The discovery papers revealed that in 1982 he had a boat for two years when he refinanced it for $10,973.07 with C & S National Bank of Atlanta, at $159.03 a month. This indicates that on a salary of approximately $17,000 in 1980 (while paying Corvette car payments), he purchased a boat for an amount (??) reduced, in a two-year period, to a loan balance of $10,973.07.

In January 1982, on a $19,000 salary, he purchased a Toyota Supra, financing $16,780.80 with First National Bank of Atlanta, at $349.60 a month. There is no accounting for the $9000 (approximate value in 1982) Corvette, which was alleged to be traded in for the Toyota. March of 1982 is the time of his 'disappearance' to a lake rental near Dawsonville (more expensive than renting a three-bedroom home in Atlanta), as well as the beginning of the $350 car payments.

Judge Kenyon had asked me if knew why he stopped paying child support in March 1982; his monthly expenses included:

Car payment	$350
Boat payment	160
Lake rental	385
Child support	(150)
Taxes and FICA	598
On a $23,500 salary, grossing $1,958	1,643

Over the years he has possessed vans, a Corvette, boats, and has always rented housing. I did (do) not want his material possessions or inheritances, just a fair amount of child support and college provisions for Jaysyn. He could have afforded to take Jaysyn to his Grandfather Rothfolk before his death; he could have afforded the air fare to the funeral.

This Spring, through the Virginia Housing Development Authority, I was assisted and given the opportunity for the same net $600 a month cost of rent (in a 2-BR apt or military-type housing we had been in), to provide my son with a nice home in a nice neighborhood in Alexandria, Virginia. I had received an increase and Mr Rothfolk's salary increased to $28,000. He receives an additional $5,000-6,000 a year from other income (inherited to date).

On July 12, I was again forced to incur $285 to appear in Judge Kenyon's court for a Final Hearing because Mr. Rothfolk did not appear at the original hearing. I was encouraged by the professionalism and perception that Judge Kenyon displayed at the November 1982 hearings. SURPRISE—Judge Robert L. Scoggins was the visiting judge handling Judge Kenyon's cases that day. Attorney Merck and I were surprised; it had been set for a specific day and time. As we walked into the Judge's chambers, Judge Scoggins said 'Hello Mr. Merc' turned to Attorney Walters, 'Hi Jim, how are you?'. At times I needed an interpreter to understand the accent—in an anonymous phone conversation discussing fees with Attorney Walters, his speech was very understandable.

Attorney Walters argued that an offer of $275 a month was adequate—after all the man has hardly ever lived with the boy. And why should Mr. Rothfolk have to pay more just because Ms. Rothfolk lives in the more expensive Washington area. Attorney Walters also stated that money orders or certified checks were two inconvenient for Mr. Rothfolk. Mr. Rothfolk (age 37) stated he had a $10,000 life insurance policy payable to Jaysyn and that he was recovering from over-using his credit cards. The judge took copies of the analysis of Mr. Rothfolk's financial history and status. On a $28,000 salary plus $5,000-6,000 from other income in rural Georgia, Mr. Rothfolk is very able to provide $400 of Jaysyn's expenses which are over $850 a month.

Judge Scoggins stated he would take the day to consider the case; that he would take the analysis of Mr. Rothfolk's discovery data and a list of my expenses (which included summer camp/activities, tutoring and Jaysyn's annual Iowa visit, which we cannot budget), and "Jim, you'll prepare the paper work?" (Judge Kenyon had requested that Attorney Merck (for plaintiff) prepare the previous domestication and contempt order—which was signed within one holiday week.) Attorney Walters replied with a "yes, sir" (the papers had not even been prepared 10 days later), asked Mr. Rothfolk to leave the hearing room, and proceeded to discuss another case with Judge Scoggins. The discussion consisted of a request for $350 attorney fees, a sewing machine and washer and dryer. When Attorney Walters realized that I brought the $350 figure to Attorney Merck's attention, he said, "Uh Judge, $250 attorneys fees is just fine," (My presence cost that mother two hours of attorneys fees. I was notified later that day that Judge Scoggins decided on $285 a month—I have no explanation on how he arrived at that figure (based on Mr. Rothfolk's salary alone, he could afford twice that amount).

I came to Washington with a baby and a case of Pampers. I have balanced raising my son, my jobs, going to college and maintaining a home. I have worked very hard and have been very fortunate to have worked for the U.S. Railway Association, the Association of American Railroads and the Interstate Commerce Commission. I have developed stress-related physical problems, as well as a cynicism which keeps me emotionally independent. It appeared, in this case before Judge Scoggins, that my accomplishments negated Mr. Rothfolk's responsibility and ability to pay child support, as well as endorsed his lifestyle and irresponsibility as a parent. This support stops at age 18, the middle of Jaysyn's high school senior year; there are no provisions for Jaysyn's college education.

Jaysyn is a very handsome, independent, mature and responsible 12 year old. He's developed the typical 'Carson' personality. He doesn't understand why his father ignores him, or why he cannot have all the material objects his peers have. We are survivors and will continue to be. I trusted Judge Kenyon's professionalism and perception in following this through, and believed that he would award child support based on Mr. Rothfolk's ability to pay and Jaysyn's needs. In Atlanta or Washington, I believe Mr. Rothfolk would be forced to rearrange his priorities.

My plea to you now is to consider legislation that will protect custodial parents from experiencing what has happened to me. Public assistance may have been easier in those early years; I never considered it. I have struggled to raise one child; I cannot comprehend raising two or more children without child support (or a token amount of child support).

I am very very fortunate, comparatively. I had faith in the court system—but I had to wait until my salary was adequate enough to risk "investing in the pursuit of child support"—a year ago, I was not receiving one dime.

Thank you for taking the time to listen to my experience. It has been very difficult and exhausting to write this to you. I am embarrassed to have you know this about me—but have been convinced that you need to know about this experience to illustrate the need for comprehensive child support enforcement legislation.

Sincerely,

BONNIE CARSON ROTHFOLK.

THE WISCONSIN DEPARTMENT OF INDUSTRY,
LABOR AND HUMAN RELATIONS, JOB SERVICE DIVISION,
Madison, Wis., July 21, 1983.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
Longworth House Office Building, Washington, D.C.

DEAR SIR: In a letter dated July 14, 1982, the Interstate Conference of Employment Security Agencies suggested that states not currently requiring quarterly wage record reports from employers for unemployment compensation purposes might like to provide comments to you on H.R. 926.

Since Wisconsin is currently a "wage request" state, we would directly impacted by the requirements in H.R. 926. We generally support the concept of improving cross matching capabilities between agencies providing income maintenance payments. We are also aware that "wage reports" systems may offer speedier payment of unemployment benefits.

Historically, employers and labor unions have opposed the imposition of quarterly wage record reporting in Wisconsin. Employers have expressed concern about the reporting burden. Labor representatives feared that wage record systems would tend to reduce benefit amounts because of the use of "aged" data compared to more current data available through "wage request" systems.

If H.R. 926 were passed without recognition of, and provision for, significant conversion costs for Wisconsin's Unemployment Compensation program, it would create a serious financial problem to us. We would much prefer Congressional action which would encourage states to convert, and provide adequate financing for conversion costs rather than mandate conversion without any conversion funding.

We appreciate the opportunity to comment on H.R. 926.

Sincerely,

EDWIN M. KEHL, *Administrator.*

STATEMENT OF THE WOMEN'S LEGAL DEFENSE FUND

Chairman Ford and members of the Subcommittee on Public Assistance and Unemployment Compensation, the Women's Legal Defense Fund appreciates the opportunity to submit this statement on the child support provisions of the Economic Equity Act. WLDF is a tax-exempt, not-for-profit membership organization based in Washington, D.C. and founded in 1971 to challenge sex-based discrimination and to promote attention to women's concerns in the legal system.

Each year the Women's Legal Defense Fund received and answers over 4,000 telephone calls from women in the Washington, D.C. metropolitan area with questions about domestic relations matters. A great many of those calls are from women who are experiencing difficulty in obtaining adequate support for their children. The Fund provides pro bono legal representation to women with precedent-setting cases. WLDF has worked extensively with battered women through a shelter program and through paralegal advocacy; many of these women experience support problems as a critical barrier is setting up new safe households. In addition, WLDF volunteers have worked with local courts and organizations on child support issues.

The child support problem

Our work in this field has convinced us that child support is an issue vital to the economic and social well-being of women and their children. We hear daily from women whose standard of living has suffered a dramatic decrease as a result of marital breakup; who feel unable adequately to support their children alone; who are dismayed that the merger amounts they were awarded by the courts are not paid; who are unable to afford an attorney to collect support for them; and who have lost faith in the ability of the legal system to help them obtain what they and their children are due and need so greatly. We hear, too, about the rent that is unpaid, the imminent move to less expensive housing and the second job the mother has had to take, leaving her children unsupervised longer hours at home because child support is inadequate.

On a national level these individuals' stories make a composite picture showing inadequate child support to be a major economic and social problem for the well-being of women and children.

A study conducted by the Bureau of the Census in 1976[1] found that there were 18.3 million people in the United States living in families which included a divorced, separated, remarried or never married woman. The proverty rate for these persons was 27 percent in comparison with 8 percent nationally for all persons in families. For people in these families, mostly women and children, receipt of any child support was a significant factor in determining their economic well-being. Of the 18.3 million people, only 13 percent of those in families with child support were poor, compared to 32 percent of those families without child support.[2]

Support of children actually falls on the person with whom they live

Whatever our stated policy may be, we as a society have made a *de facto* decision that the support of children should be borne by the person with whom the child is living, usually the mother. In fact, research data have repeatedly suggested that 60 to 80 percent of children eligible for child support receive none.[3] The Bureau of the Census study cited before found that only one-fourth of the 4.9 million divorced, separated, remarried or never married mothers actually received any child support payment at all.[4]

Even for those families who do receive some child support, it generally is not the major source of support for the children.[5] The Census Bureau study found that 60 percent of the families in which some support was paid received less than $1,500 altogether for the year,[6] which is less than half of the annual cost of raising a single child at a moderate cost level according the U.S. Department of Agriculture statistics. Of course, the payment was often for more than one child.

Child support payments constitute an insignificant part of their income even for those women who do receive payments. For approximately half the women receiving support, payments were less than 10 percent of total family income. Only 5 percent obtained more than half their family income from child support.[7] In addition, since women earn so much less than men, the children's standard of living is far less than it would be were they receiving substantial and fair support from their fathers as well as their mothers.

Social/psychological impact of inadequate child support

The impact of the lack of child support is not economic alone. There is also a serious psychological and social impact on women and children. There is growing evidence to suggest that children from broken homes are no more likely to suffer adverse social consequences such as criminal behavior or academic failure than their friends from intact homes so long as the divorce or separation does not effect the economic status.[8] This, of course, is infrequently the case.

In fact, a pioneering study by Drs. Judith Wallerstein and Joan Kelly of sixty divorcing families found that the sharp decline in the mother's standard of living led to a series of very dramatic consequences for her children.[9] Mothers who were under extreme pressure to earn money worked longer hours at work and at home and had less time for their children; other family members did not make up the time. Lower income also meant a move to a new home for nearly all of the children with the consequent disruption of neighborhoods, friends and schools. Many of the children were moved three or more times within five years. The researchers also found that when there was a great disparity between the incomes of the father's and the mother's households the children experienced a pervasive sense of deprivation and anger.

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[1] U.S. Department of Commerce, Bureau of the Census, Current Population Reports: Divorce, Child Custody and Child Support, Special Studies Series P-23, No. 84 (1979) (referred to as Census Bureau Study).

[2] *Id.* at 4.

[3] Cassetty, J., *The Parental Child Support Obligation*, 3, 35, 79, 263 (1983); Urban Institute, "Child Support Payments in the United States," working paper 992-03, 90-109 (1976); Cassetty, J., *Child Support and Public Policy*, 46-61 (1978).

[4] Census Bureau Study, *supra* note 1, at 3. The figure does not include payments for support of children that may have been made in the form of alimony payments—often for tax reasons.

[5] See references cited in note 3, *supra*, and Census Bureau Study, *supra* note 1 at 3.

[6] Census Bureau Study, *supra* note 1, at 3.

[7] *Id.* at 3.

[8] Ross, H. and Sawhill, I., *Time of Transition: The Growth of Families Headed by Women*, 133-153 (1975).

[9] J. Wallerstein and J. Kelly, *Surviving the Breakup*, 23-25, 183, 231 (1980).

Fathers are able to pay more

It should not be concluded that fathers are unable to pay more support than they do:

A Colorado study found that two-thirds of fathers were ordered to pay less per month for child support then they paid for their car payments.[10]

A California study found that following divorce, men experienced a 42 percent increase in their standard of living while women experienced a 73 percent loss.[11]

A Cleveland, Ohio study found that most ex-husbands retain 80 percent of their former personal income after divorce, even after all alimony and child support were paid.[12]

Another California study of divorces of couples who had been married eighteen or more years found that the ex-husband and his new household had more than double the disposable income per person than did the ex-wife and her household, even assuming all support payments were made and taking into account the ex-husband's new dependents.[13]

Major problem areas

Our experience suggests that three principal problems explain the alarming national statistics on the unjust economic suffering of women and children living in mother-only households, on the functional level. Legislation can address each of these problems.

First, many mothers are never awarded a child support order by the courts.

Second, when court support orders are issued, they are frequently woefully inadequate and they do not keep up with inflation.

Third, most mothers with child support orders are unable to enforce them.

The Economic Equity Act

The child support provisions of the Economic Equity Act address each of these three major problem areas and require states to take specific steps to address each. While WLDF has problems and disagreements with some of the specific provisions, which will be discussed later, we support the basic thrust of the child support provisions.

(a) The problem of no support award.—One of the major problems the Act addresses is the problem of the complete lack of a support award. This problem is particularly acute for women who do not receive AFDC benefits but are unable to afford an attorney to establish or collect child support payments and for women with out-of-wedlock children who must prove paternity before their children are eligible for support.

Support awards for non-FDC recipients

The child support collection problems of women who do not receive AFDC benefits is of particular concern. Although Title IV-D has required services to non-AFDC recipients since its original passage in 1974, this obligation has been woefully unmet and unenforced. Although collecting support for non-AFDC recipients has the potential for keeping many families from requiring public assistance and serves other important purposes, the emphasis of the program has been on collecting benefits for AFDC recipients where cost-savings to the states are greatest and easier to measure.

For example, a federal court recently found that under the North Carolina Child Support Enforcement Plan, non-welfare cases have been excluded from legal services provided to welfare recipients. In addition, local child support enforcement offices have denied all services to non-welfare families by refusing to take applications from them; where applications were taken, local offices failed to process non-welfare as effectively as welfare cases.[14]

The problem of representation in these cases has grown particularly acute because the cutback in funding for the legal Services Corporation has resulted in drastic decreases in the legal representation previosuly available for poor women in all domestic relations cases.

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[10] Yee, L., "What Really Happens in Child Support Cases: An Empirical Study of Establishment and Enforcement of Child Support Orders in the Denver District Court", 57 Denver L. J., 21, 50 (1979).

[11] Weitzman, L., "The Economics of Divorce: Social and Economic Consequences of Property, Alimony and Child Support Awards," 28 U.C.L.A. L. Rev., 1181, 1251 (1981).

[12] Sternin, G. and Davis, J., *Divorce Awards and Outcomes: A Study of Pattern and Change in Cuijahoga County, Ohio 1965–1978,* 8 (1981).

[13] Weitzman, L. and Dixon, R., "The Alimony Myth: Does No-fault Divorce Make a Difference?." 14 Fam. L. Q. 141, 174–5 (1980).

[14] *Carter v. Marrow,* ——F. Supp. ——, 9 Family Law Reporter 2418 (D.N.C. 1983).

For all of these reasons, WLDF welcomes the emphasis in the proposed legislation on assuring "compliance with obligations to pay child support to each child in the United States," (Section 501(a)(a).) To the extent that all children and not only those receiving AFDC payments be served by the program, it should be helpful in encouraging the Office of Child Support Enforcement to enforce this aspect of the program and to drop efforts to have state programs emphasize AFDC collection efforts over non-AFDC efforts.

We recommend revising Section 501(a) to omit the phrase "living with one parent" as children living with someone other than a parent also may need and be entitled to child support payments.

Establishing paternity for children born out-of-wedlock

One major barrier to establishing support obligations for children born out-of-wedlock is the difficulty of proving paternity. New and very sophisticated blood tests are highly reliable in proving paternity. In many states, however, rules of evidence are still based on older and far less reliable blood tests and therefore exclude their use to prove paternity, although they can be used to disprove it. Similarly, fathers may sometimes refuse to cooperate in blood test efforts. The thrust of the EEA provisions (Sections 504(a)(3)(25)(B) and (25)(D)) is to require states to allow use of highly reliable blood tests to prove paternity and to provide for a default paternity proeeding if the father refuses to cooperate.

We support the thrust of both provisions but suggest that the language be changed to require specifically that states make the results of these tests admissible in evidence to prove paternity. A second provision might require states to allow proof of refusal to cooperate in blood testing to be an admission of paternity or to be affirmative proof of paternity.

In addition, a number of states still have statutes of limitation on the filing of paternity actions. Because establishment of paternity is a prerequisite to entitlement to support, many nonmarital children are effectively denied the possibility of support by these statutes. The Supreme Court has ruled both one and two year statutes of limitations unconstitutional in the cases of Mills V. Habluetzel[15] and Pickett v. Brown,[16] and indeed, these rulings cast doubt on the constitutionality of any statutes of limitations (shorter than those applicable to legitimate children). For that reason, this legislation should require all states to eliminate unconstitutional statutes of limitation in paternity cases.

(b) The problem of ineffective enforcement of support awards.—We will, for the moment, move ahead to enforcement provisions of the EEA and return to questions of inadequate awards last.

A number of states, many of them encouraged by the IV-D program, have developed effective methods for collecting child support payments once they are awarded. The federal Office of Child Support Enforcement also should be commended for its efforts to improve support enforcement efforts. These mechanisms have included provisions requiring mandatory wage withholding to meet child support arrearages; voluntary wage assignment provisions; central state registries to keep track of whether child support payments are made and to allow prompt and automatic enforcement action; use of enforcement mechanisms such as liens or bonds to provide security for payment of past due support amounts; collection of past due support from state income tax refunds; use of administrative or quasi-judicial mechanisms such as administrative hearings or court magistrates or referees for support enforcement.

The Economic Equity Act requires all states to adopt these good practices and we support these provisions of the Act. We also support the concept of automatic, prospective wage withholding, assuming that due process and privacy concerns can be met, although we do not believe a distinction should be made between federal and all other employees. Automatic collection of payments through such mechanisms as wage withholding and very prompt enforcement action are more successful than efforts long after large arrearages have accumulated.

We would make several minor modifications to tighten this portion of the Act. First, the provision requiring establishment of a child support clearinghouse in each state (Section 503) requires that records of payments be maintained and arrearages reported to the court and agency, as well as that each state establish a mechanism to ensure that enforcement action be automatically taken. We fear that the language of the bill does not clearly implement Congress' intent, and profitably could be rewritten to clarify that each state must ensure that enforcement action is automatically taken when arrearages accumulate, unless the recipient specifically declines such assistance. The provisions regarding wage withholding (Section 504(3)(21)) and wage assignment (Section 504(3)(25)(A)) should be amended to make clear that states must require employer cooperation. The mandatory wage withholding provision should apply not only to wages but also to other forms of compensation such as commissions or bonuses. Finally, the Federal Wage Garnishment Act should be amended to provide that employees may not be fired as a result of a garnishment for child support purposes and that employees should be "allowed" one other garnishment in addition. That law now provides protection against being fired because of a single wage garnishment.

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[15] 456 U.S. 91 (1982).

[16] —— U.S. ——, 9 Family Law Reporter 3041 (1983).

(c) Support awards in inadequate amounts.—Support amounts awarded by courts are generally low in comparison to the actual cost of raising a child—typically they do not even cover half the cost. The amount of child support ordered to be paid is generally modest in comparison with the father's ability to pay. The major burden of child support, therefore, falls on the mother who generally has the least ability to support the children from her earnings.[17]

In addition, support amounts are not easily predictable based on the facts of a case. Similar cases are not treated similarly. Several studies have found wide variations in awards by different judges within one locale and from case-to-case indecisions by a single judge.[18]

I am sure it was for these reasons that the drafters of this bill chose to require states to establish "an objective standard to guide in the establishment . . . of support obligations" "such that comparable amounts of support are awarded in similar situations." However, there are two general approaches to support guidelines. The proposed statute, by using the language "by measuring the amount of support needed and the ability of an absent parent to pay such support," chooses one of the two major approaches to support guidelines. Unfortunately, it is the less desirable of the two and is likely to result in unfairly low support awards. For that reason, we cannot support this provision of the Act.

The two major approaches are the "cost-sharing" approach, which is embodied in the language of this provision, and the "resource sharing" approach, which we believe is a much fairer approach to child support guidelines. Professor Judith Cassetty has described the two approaches:

"The cost-sharing approach begins with the assumption that there are rather fixed and measurable costs associated with raising a child and that once known, they can be apportioned in some way between a child's parents. A major problem with this approach is that the cost of a child is largely a function of the resources available to the parents. Thus, the cost of a child in a poor household is different from the cost of a child in a moderate- or high-income family . . . (T)he application of child support standards based on the cost-sharing approach can lead to serious inequities. If children reside with their mother whose earning power is limited, for instance, their standard of living may be quite low, and the cost-sharing approach to setting child support may lead to a relatively meager contribution from the father, though his earnings may be substantial . . .

"The resource sharing approach, on the other hand, is based on the belief that children should benefit proportionately from the resources of each parent. In other words, children would not suffer a decline in their standard of living in the event of divorce."[19]

Or as other economists have described it, when the former standard of living cannot be maintained in both households post-divorce, the standard should be "equal suffering" with both new households at an equal but lower standard of living based on the new composition of the two new households.[20]

We would agree to the EEA requiring states to establish guidelines that embodied the latter approach. Barring that, however, we suggest that this provision be dropped from the bill altogether, substituting instead a requirement that OCSE conduct a study of support guidelines, including a study of the effect on the child's standard of living of different guidelines, and further conduct a study to gather sufficient data to allow adequate guidelines to be constructed. For example, data that are used in determining the cost of raising a child or in comparing the standard of living of households of various composition were based on information gathered about two-parent households, and may not accurately reflect expenses such as day care costs which are often greater in single parent-households.[21]

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[17] Weitzman, L., *supra* note 11, at 1233-411.

[18] Yee, L., *supra* note 10; White, K. and Stone, R., "A Study of Alimony and Child Support Rulings With Some Recommendations," 10 Fam. L.Q. 75 (1976).

[19] Cassetty, J., *The Parental Child Support Obligation*, 5 (1983).

[20] See Eden, P., A Model Schedule of Temporary Child and Spousal Support; Eden, P., Estimating Child and Spousal Support (1977); Eden P., "Forensic Economics, The Use of Economists in Cases of Dissolution of Marriage," 18 Am. Jur. Proof of Facts 2 (1978); Sawhill, D., in Cassetty, J., *The Parental Child Support Obligation*, 79, 80–81 (1983).

We also are simply concerned that there are many guidelines now in existence which do not represent a fair approach to the determination of child support amounts. We are reluctant to see poor practice embodied in state law because of pressure from the federal government and before there has been full public discussion and debate over the correct policy to be embodied in guidelines. Professor Weitzman found that most Los Angeles support awards were lower than the guidelines in use; judges apparently considered them a ceiling on support rather than an average.[22] Eden found that support guidelines in Alameda County, California represented amounts far below an amount needed to apportion the diminished family earnings equitably between two new households.[23] Proposals have been made which would require looking to AFDC or foster care payment levels to determine a basic level of need to be apportioned between the parents; obviously this would result in far lower awards in higher income households.[24]

Similarly, we would eliminate any requirement that an administrative mechanism be used for the establishment of support levels or for modification of support. Particularly without adequate guidelines this is an inappropriate approach. Too often women's cases are relegated to a less careful decision-making process than all other cases.

Even with good support guidelines, questions would remain to be litigated in individual cases. There will always be exceptional medical or school expenses for a child or a parent, heavy financial obligations which reduce the available resources for child support, or failure of a spouse to seek and obtain employment consistent with his or her ability and family needs. These are proper issues for judicial resolution in setting proper support amounts. Requiring parties to go through an administrative process before being allowed access to the judicial process may well result in extra delays and litigation expenses before arriving at a fair result which is not the effect this Committee should desire.

One extremely positive amendment which could be made to this legislation would be to require that states allow or require judges to include annual cost of living increases in child support award. At present child support awards are constantly eroded by inflation. Mothers must return to court to seek increases in support and, because of the expenses involved, are able to do so infrequently. Legal standards for a changed award also may make it difficult to obtain an increase. Many IV-D offices will not seek increases on the basis of inflation alone. With the change proposed, the assumption would be that annual increases would help child support awards keep up with inflation. Such an increase could be modified if changes in the parents' income made such an automatic adjustment unfair.

We believe it is appropriate for a court to award coverage of medical expenses in addition to monthly child support payments. However, we believe Section 504(a)(3)(20) should be amended to require states to grant such authority rather than requiring that such support be sought in every case. Some mothers would have their own health insurance and may prefer increased monthly payments from the child's father instead.

In a related vein, we support the idea of allowing extended Medicaid benefits for several months for families who are able to leave the AFDC rolls because of child support collections.

(d) *Alimony.*—Finally, we believe that all aspects of the Title IV-D collection program should apply to alimony as well as child support. At present the IV-D program will pay for the federal share of costs of enforcing support obligations owed by absent parents to their children and one spouse (or former spouse) with whom such children are living. 42 U.S.C.A. § 651 (Supp. 1983). But states are not required to collect alimony. We favor requiring states to collect alimony as well as child support for several reasons:

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[21] Cf. Brunch, C., Developing Normative Standards for Child Support Payments: A Critique of Current Practice, in Cassetty, J., *The Parental Child Support Obligation*, 121-22 (1983).

[22] Weitzman, *supra* note 11, at 1234-35.

[23] Eden, P., A Model Schedule of Child and Spousal Support.

[24] Legislation introduced in the District of Columbia in the Spring of 1982 proposed support at the AFDC level. Mayrick Franks in "How to Calculate Child Support," Case and Comment 5 (January February 1981) suggests as one figure to look at in determining a child's needs the foster care payment level.

The mechanisms for establishment and collection of alimony are the same as those for child support. In many, if not most, cases the two can be combined in a single legal action with little additional effort or expense.

Support for children is often combined with support for a former wife, and the whole amount is labelled alimony in order to obtain tax savings.[25] It is unfair not to require enforcement of such arrangements once entered into and it is unfair not to make use of this tax advantage in establishing support because a state chooses not to seek alimony.

The small number of cases in which alimony is awarded when there are no minor children generally involve displaced homemakers who have spent a lifetime raising a family and lack job skills or disabled former wives. Both groups are deserving of public aid in collecting their support payments.

For these reasons we ask that the mandatory provisions of the Act be extended to cover alimony as well.

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[25] This practice was approved in *Commissioner v. Lester*, 366 U.S. 299 (1960).

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